THE

REGULATIONS AND LAWS

ENACTED BY THE

GOVERNOR GENERAL IN COUNCIL,

FOR

THE CIVIL GOVERNMENT

OF

THE PROVINCES UNDER THE PRESIDENCY

OF

FORT WILLIAM IN BENGAL,

FROM 1793 TO 1828, INCLUSIVE;

Arranged in Departments, on the Plan of Malony's Synopsis.

VOL. I.

JUDICIAL DEPARTMENT.

DIVISION I. CIVIL REGULATIONS.

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A. D. 1793. REGULATION VI.

A REGULATION *for extending and defining the Powers and Duties of the Court of Sudder Dewanny Adawlut, and prescribing Rules for receiving and deciding upon Appeals from the Decisions of the Provincial Courts of Appeal.*—PASSED *by the Governor General in Council, on the* 1*st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Wiltaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

THE extension of the powers of the *zillah* and city courts of *dewanny adawlut*, or courts of judicature established in the several *zillahs*, and in the cities of Patna, Dacca, and Moorshedabad, for the trial of civil suits in the first instance, by Regulation III. 1793, and the erection of the four provincial courts of appeal, by Regulation V. 1793, having rendered it necessary to extend the powers of the Sudder Dewanny Adawlut, or court of appeal in the last resort in civil suits, and to modify the late regulations prescribed for its guidance, in conformity to the principles upon which the courts subordinate to it have been constituted; the following rules have been enacted.

Court to consist of the Governor General and the other members of the Supreme Council.

II*. *The Court of Sudder Dewanny Adawlut is to consist of the Governor General, and the other members of the Supreme Council.*

Seal of the court.

III. The court is to use a circular seal, two inches and a quarter in diameter, with an inscription to the following effect, in the Persian and Bengal characters and languages, and in the Hindoostance language and Nagree character. "The seal of the Sudder Dewanny Adawlut." The court is to be held in a large and convenient room at Calcutta, and to sit *de die in diem* as the dispatch of business may require, and is empowered to make such reasonable adjournments as may be deemed expedient consistently with the business. No rule, order, proceeding, or decree, is to be made but on court days, and in open court.

Court to be held in Calcutta.

To *sit de die in diem*, and to make reasonable adjournments.

No decree, order, &c. to be made but on court days, and in open court.

Cases in which the Sudder Dewanny Adawlut is empowered to refer original suits or complaints to the *zillah* or city courts.

IV. *First.* The Sudder Dewanny Adawlut is empowered to receive any original suit or complaint which may be cognizable in any *zillah* or city court, and to command the judge of such court, by a precept under the seal of the court, and attested by the register, to receive the suit or complaint, and to proceed to hear and determine it, provided proof shall be previously made to their satisfaction that the judge refused or omitted to proceed in it, and that the complainant applied to the provincial court of appeal of the division, and that such court omitted or refused to command the judge to receive or proceed in it under Section 7, Regulation V. 1793. If the plaintiff shall refuse or neglect to proceed in the suit or complaint, for the period of six weeks after the order of the Sudder Dewanny Adawlut may be received by the *zillah* or city court, and notified to the complainant, the judge is authorized to dismiss it, notwithstanding the order of the Sudder Dewanny Adawlut. In such cases, the judge, within one week after the dismission of the suit or complaint, is to certify to the Sudder Dewanny Adawlut under his hand and the seal of the court, that the suit or complaint has been dismissed, and the grounds of the dismission.

Suit or complaint to be dismissed, if the party preferring it shall refuse or omit to proceed in it for six weeks.

Judge to notify the dismission of the suit to the Sudder Dewanny Adawlut.

* This section is repealed by Section 2, Regulation II. 1801.

Cases in which the Sudder Dewanny Adaulut may receive petitions respecting suits or matters depending, or which may have been decided, in any zillah or city court.

Court how to proceed with such petitions.

Second*. *The Sudder Dewanny Adawlut is vested with authority to receive any petitions respecting suits or matters that may be depending, or have been decided, in any* zillah *or city court, and provided it shall be proved to their satisfaction that the petition was presented to the judge of such court, and that he refused or omitted to receive it, or to comply with the prayer of it, and the prayer shall appear to the court just and reasonable, and consistent with the regulations, and they shall be of opinion that it was the duty of the judge to have complied with it, and that the complainant applied to the provincial court of appeal of the division, and that such court omitted or refused to grant the precept specified in Section 8, Regulation V. 1793, the court are empowered to issue a precept under the seal of the court, and attested by the register, commanding the judge to receive the petition, and to proceed respecting it in whatever manner they may think it proper to direct, and return by a limited period what he has done in consequence of such command.*

Cases in which the Sudder Dewanny Adawlut is empowered to refer appeals to the provincial courts to be tried and determined.

Appeal to be dismissed if the appellant shall omit or refuse to proceed in it for six weeks.

Provincial court to notify the dismission of the appeal to the Sudder Dewanny Adawlut.

V. *First.* The Sudder Dewanny Adawlut is empowered to receive any appeal from a decision of a *zillah* or city court which may be cognizable in any provincial court of appeal, and to command such provincial court, by a precept under the seal of the court, and attested by the register, to receive the appeal, and to proceed to hear and determine it, provided proof shall be previously made to their satisfaction, that the provincial court omitted or refused to receive or proceed in it. If the appellant shall refuse or omit to proceed in the appeal, for the period of six weeks after the order of the Sudder Dewanny Adawlut may be received by the provincial court, and notified to him, the provincial court is empowered to dismiss it, notwithstanding the order of the Sudder Dewanny Adawlut. In such cases the provincial court, within one week after the dismission of the appeal, is to certify to the Sudder Dewanny Adawlut under their hands and the seal of the court, that the appeal has been dismissed, and the grounds of the dismission.

Cases in which the Sudder Dewanny Adaulut may receive petitions respecting appeals or matters depending, or which may have been decided, in any provincial court.

Sudder Dewanny Adawlut how to proceed in such cases.

Second†. *The Sudder Dewanny Adawlut is vested with authority to receive any petitions respecting appeals, or matters, that may be depending, or have been decided, in any provincial court of appeal, and provided it shall be proved to their satisfaction that the petition was presented to the provincial court, and that they refused or omitted to receive it, or to comply with the prayer of it, and the prayer shall appear to the court just and reasonable and consistent with the regulations, and they shall be of opinion that it was the duty of the provincial court to have complied with it, the court are empowered to issue a precept under the seal of the court, and attested by the register, commanding the provincial court to receive the petition, and to proceed respecting it in such manner as they may think it proper to direct, and to return by a limited period what has been done in consequence of such command.*

Sudder Dewanny Adawlut not to correspond with parties in suits, or any person, respecting matters before the court, or cognizable by it.

VI. The Sudder Dewanny Adawlut is prohibited corresponding by letter, with parties in suits or process or matters depending before them, or coming within their cognizance. If a party in a suit, or any person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he is either to appear in the court in person, and represent the matter in writing, or to make the representation in writing through an authorized *vakeel*. The court are to pass whatever order upon the representation may appear to them proper consistently with the regulations, and to cause a copy of the order to be delivered to the person making the representation, or to his *vakeel*, under the seal of the court, and attested by the register.

In trying matters in the first instance, and in appeals, the Sudder Dewanny Adawlut to be guided by the rules prescribed to the zillah and city courts.

Exception to the rule.

VII. In matters which the Sudder Dewanny Adawlut may be empowered by any regulation to try in the first instance, and also in appeals that may be preferred to the court from decisions of the provincial courts of appeal, (excepting as to hearing witnesses and receiving evidence,) the court is to proceed in the same manner, and with the like powers and authority, and subject to the same restrictions, limitations, and exceptions, as are prescribed to the *zillah* and city courts.

Sudder Dewanny Adawlut how to proceed, in the event of the judge of a zillah

VIII‡. If any person shall charge the judge of a zillah *or a city court, or of a provincial court of appeal, before the Sudder Dewanny Adawlut, with having been guilty of*

* This clause rescinded by Section 5, Regulation II. 1798.
† This clause rescinded by Section 5, Regulation II. 1795.
‡ This section rescinded by Section 2, Regulation X. 1806.

corruption in opposition to his oath, the court is to receive the charge, provided the complainant shall previously make oath to the truth of it, (or subscribe the required declaration, if he shall be of the description of persons whom the court are empowered to exempt from taking oaths,) and give security in whatever sum the court may judge proper, to appear and prosecute the charge when required. Unless the complainant shall take the oath, or subscribe the abovementioned declaration, and give the required security, the court are not to receive the charge. If the court shall receive any such charge, or upon a charge of corruption against the judge of any zillah *or city court, being transmitted to them by any provincial court of appeal under Section* 10, *Regulation V.* 1793, *the court (according as they may deem proper upon a consideration of the circumstances of the case) may direct the parties to proceed to Calcutta, that the charge may be tried before the Sudder Dewonny Adawlut; or, if the party accused shall be a judge of a* zillah *or a city court, the court may order the charge to be tried by the provincial court of appeal of the division; or, if the party accused shall be a judge of a provincial court, the court may grant a special commission to three or more of the judges of the other provincial courts, to assemble and try the charge; or, in any of the cases mentioned in this section, they may recommend to the Governor General in Council, to order the party accused to be prosecuted in the Supreme Court of Judicature by the law officers of Government, under the provisions made by act of parliament for such cases. If the charge shall be established, the Governor General in Council will either remove such judge from his office, or suspend him from the Honourable Company's service, or pass such other order as may appear to him proper. If the charge shall not be proved, the judge so accused is to be at liberty to sue the accuser for damages in any court of judicature to which he may be amenable. The rules contained in this section, are not to be construed to prevent any individual who may have a charge of corruption to prefer against a judge of any* zillah *or city court, or provincial court of appeal, from prosecuting such charge in the Supreme Court of Judicature in the first instance, under the provisions made by act of parliament for such cases.*

or city court, or a provincial court of appeal, being charged with corruption.

Punishment to which the party accused will be liable, if convicted.

If the charge shall not be proved, the accuser to be liable to be prosecuted for damages.

Rules contained in this section, not meant to debar individuals from prosecuting such judges in the Supreme Court in the first instance, under the act of parliament.

IX. *First.* The Sudder Dewanny Adawlut are empowered to hear and determine appeals in the following cases. From decisions in suits or matters of a civil nature, which may have been passed by the chief and other members of any provincial council, or committee, or any member or members of such council or committee, as a court of appeal, where the decisions shall have been passed on or before the 6th of April, 1781, and the petition of appeal shall have been presented to the Sudder Dewanny Adawlut, or to the president and council, or the Governor General and Council, on or before the 1st of February, 1782. From decisions passed by the late committee of revenue, or the Board of Revenue, between the 6th April, 1781, and the 1st May, 1793, either in suits that may have been tried and decided in the first instrnce by them, or in appeals from decisions of the collectors, or any covenanted civil servant of the Company, entrusted with the collection of the revenue of any district, where a petition of appeal shall have been presented to that Committee or Board, or to the Governor General and Council, or the Governor General in Council, within one month after the decree shall have been passed. Provided, however, that if the appellant in the cases specified in this clause shall have merely filed a petition of appeal, and shall have omitted to proceed in the appeal for six weeks, the court are to dismiss the appeal, unless the appellant shall show good and sufficient cause to their satisfaction for not having proceeded in it.

Cases in which the court may decide upon appeals from decisions of courts or boards having appellate jurisdiction, passed on or before the 6th April 1781, or,

subsequent to the 6th April 1781, and previous to the 1st May 1793.

Second. The Sudder Dewanny Adawlut is empowered to admit and determine any appeal that may be preferred to them after the periods limited in clause first, provided the person presenting it can show just and reasonable cause to the satisfaction of the court for not having preferred the appeal within the limited periods. But the court is to exercise with caution the power vested in it by this clause, and clause first, of trying or admitting appeals from decisions after the lapse of the time limited for trying or admitting them, lest all property held under such decisions should be deemed insecure from being considered liable to be again contested; and in every case in which they may judge it proper to agree, or to refuse, to try or admit such appeals, they are to record their reasons at large for so doing on their proceedings.

Cases in which the court may receive appeals from such decisions, although not presented within the periods specified in clause first.

Court to exercise the power herein specified with caution.

Reasons for every exercise of the powers herein specified to be recorded on the proceedings.

Third. The court are empowered to confirm or reverse, in whole or in part, the decrees appeals from which they may try under clause first and second, as also all other decrees from

What decision the court may pass in appeals of any

description which they may be empowered to try.

from which they are or may be authorized to receive appeals, and to make such further order on all such decrees, as justice, equity, and good conscience may require, and award such costs to either party as they may deem reasonable.

From what decrees of the provincial courts of appeal an appeal is to lie to the Sudder Dewanny Adawlut.

X. If any person shall deem himself aggrieved by the decree of a provincial court of appeal that may be passed subsequent to the 1st May, 1793, for land or other real property being *lakheraje* (exempted from the payment of revenue to Government), the annual produce of which shall exceed one hundred sicca rupees; or for any *zemindaree*, independent *talook*, or other landed estate, being *malguzaree* (paying revenue to Government), where the produce shall exceed one thousand sicca rupees per annum, or for any dependant *talook*, the annual produce of which shall be more than one thousand sicca rupees; and in all other cases where the decree shall be for a sum of money, or personal property, or real property not of the descriptions before mentioned, the amount or value of which shall exceed one thousand sicca rupees, such person shall be at liberty to appeal from the decision to the Sudder Dewanny Adawlut, by petition of appeal. The petition is to state (respect being had to the matter decreed) the annual produce of the land, whether *lakheraje* or *malguzaree*, the sum of money, or the value of the property which may be decreed, the name of the person in whose favour the decree may be given, the court in which it may have been passed, when it was made, what was decreed by it, and whether the decree has been executed; and is to assign some cause, special or general, for appealing from the decision. The petition is to be accompanied with an attested copy of the decree of the provincial court of appeal, or by a written declaration signed by the party desirous to appeal, or his *vakeel*, that ten days after the decision was passed, he applied to the court for a copy of the decree, and was denied it. The petition is to be presented to the court in which the decree appealed against may have been passed, or to the Sudder Dewanny Adawlut, within three calendar months after the day on which the decree may be given. But it shall nevertheless be permitted to such person, to prefer his petition of appeal to the Sudder Dewanny Adawlut, after the expiration of the three months; and the court are authorized to admit the appeal, provided the petitioner can show just and reasonable cause to their satisfaction for not having preferred it within the limited period. But whenever the Sudder Dewanny Adawlut may admit or reject an appeal which may be preferred to them after the limited time, they are to enter upon their proceedings their reasons at large for so doing, and in admitting such appeals, they are to observe the caution prescribed in clause second, Section 9, with regard to the trial or admission of the appeals therein alluded to, after the limited period. If the petition of appeal shall be against a decree whereby the right of possession of any *zemindaree*, independent or dependant *talook*, or any land or house, or other real property, shall be decreed, and the party cast shall be in possession of the property at the time the decree may be made, all proceedings are to be immediately suspended, and no execution is to be had, or possession given under the decree, until the appeal shall have been finally determined in the Sudder Dewanny Adawlut, provided such party shall enter into good and sufficient security, in a sum equal to one year's amount of the annual produce of the *zemindaree*, *talook*, or other land or house, or real property, which shall have been decreed, to abide by and perform whatever order may be passed by that court. But if such party shall neglect or refuse to enter into the prescribed security, on or before the court day next after the day on which the appeal may be preferred, the court by which the decision may have been passed is to order the decree to be executed. In all other cases, the provincial court of appeal may order the decree appealed against, to be carried into execution, or direct that sufficient security be given by the party against whom the decree may have been passed, in an amount equal to the sum of money or value of the thing decreed, for the performance of the decree. If the provincial court shall order the decree to be executed, security is to be taken from the party in whose favour the decree may be passed in a sum of money equal to the amount or value of the thing decreed, for the due performance of such order or decree as may be made in the Sudder Dewanny Adawlut.* *In all cases, however, the party appealing is to give good and sufficient security in such sum as to the provincial court may seem proper, upon a consideration of the amount or value of the property or thing decreed, (provided that the security so to be taken be not in any case for a greater sum than five hundred sicca rupees,) for the payment*

Petition of appeal to be accompanied with a copy of the decree, or a written declaration from the party or his *vakeel*, that he applied for a copy of the decree within ten days, and was denied it.

Period limited for preferring appeals.

Cases in which the Sudder Dewanny Adawlut may admit appeals after the limited time.

Court to record their reasons for admitting or rejecting an appeal after the limited time, and to attend to the caution in clause second, Section 9.

Execution of decrees for real property in possession of the party cast to be suspended, upon his giving the security herein specified.

Such decrees to be executed on the party cast.

In all other cases, the court may either execute the decree appealed against, or take security from the party cast for the performance of it.

If the court shall order the decree to be executed, security is to be taken from the party in whose favour it may be made for the performance of the decree of the Sudder Dewanny Adawlut.

In all cases, however, the appellant is to give the security herein required.

* Rescinded by Section 9, Regulation II. 1798.

of the costs that the Sudder Dewanny Adawlut may award, and for the performance of the decree which it may pass. When the securities hereby required shall have been entered into, the senior judge of the court is immediately to endorse on the petition in his own handwriting, the day of the month and the year in which it may be presented, and sign it with his name, and cause to be written in the margin of the record immediately opposite to the decree of the court, the word "appealed," and the court are to transmit the petition to the Sudder Dewanny Adawlut. The court is at the same time to direct notice to be given to the appellant in writing, that within fifteen days, the proceedings held in the cause appealed will be certified to the Sudder Dewanny Adawlut, and that if he shall not proceed in the appeal within six weeks after it may be filed in that court, the appeal will be dismissed, unless he shall shew reasonable cause to the satisfaction of the court for not having proceeded in it.

When the appellant has entered into the securities required, the senior judge of the court is to make the endorsement herein directed on the petition; and the court is to transmit it to the Sudder Dewanny Adawlut.

Notification to be made to the appellant upon the receipt of the petition of appeal.

XI. The court, within fifteen days after the receipt of the appeal, are to certify under their hands and the seal of the court, to the register of the Sudder Dewanny Adawlut, the record duly made up and authenticated, including the original petition of appeal, and answer of the parties, the original papers and documents received from the *zillah* or city court, the original depositions, (where any may have been taken before the provincial court,) exhibits, and every original paper read in the cause. Previous to transmitting the abovementioned papers to the Sudder Dewanny Adawlut, the provincial court are to cause true and faithful copies of all the originals, authenticated by the *sheristadar*, or head native officer of the court, to be made out and deposited in the court in lieu of the originals. The copies are to be deemed records of the court, and are to be received in evidence in any other court. In cases where any original depositions, or other original proceedings or matter whatsoever, shall have been previously entered in any provincial court, in any book which may likewise contain other proceedings in other distinct causes, or any other matter, so that such original papers cannot be transmitted to the Sudder Dewanny Adawlut without the other proceedings or matters, the court within the time and in the manner before directed, is to certify a true and authentic copy of such original papers, and that the original of each copy transmitted, is so entered in such book. But they are nevertheless to transmit the original petition of appeal, the original answer, or other separate pleadings of the parties, and the original exhibits which shall have been delivered in, or produced by the parties and read in the course of the cause before the court, if they be forthcoming, in the manner before required. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book or proceedings, the copy is to be deemed the original, and the court is to transmit a copy of it to the Sudder Dewanny Adawlut, and in like manner to certify it, and that after due search, the original cannot be found.

Record, including original papers in the cause appealed, to be transmitted to the register to the Sudder Dewanny Adawlut in fifteen days after the receipt of the appeal.

Copies of all the original papers transmitted, attested by the *sheristadar*, to be deposited amongst the records of the court.

Copies to be deemed records, and to be received in evidence.

Copies of original papers to be sent to the Sudder Dewanny Adawlut, where the originals cannot be sent for the reasons herein specified.

Recorded copies of original papers not forthcoming to be deemed the originals, and copies of them to be forwarded and certified as herein required.

XII. If a petition of appeal shall be presented in the first instance to the Sudder Dewanny Adawlut against any decree of a provincial court of appeal, whereby the right of possession of any *zemindaree*, independent or dependant *talook*, or any land or house, or other real property, shall have been decreed, and the party cast shall have been in possession of the property at the time the decree was passed, and no execution shall have taken place, or possession been given under the decree of the provincial court, and provided such party shall have given good and sufficient security to the provincial court, in a sum equal to one year's amount of the annual produce of the *zemindaree*, *talook*, land, or house, or other real property, which may have been so decreed, to abide by and perform whatever order may be passed in the Sudder Dewanny Adawlut, the court is to issue an order to the provincial court the decree of which shall be appealed against, to suspend the execution of it until the appeal shall have been finally determined. And in every case where a petition of appeal shall be preferred in the first instance immediately to the Sudder Dewanny Adawlut, and no security shall have been taken by the provincial court, the Sudder Dewanny Adawlut is not to proceed in the appeal, until the party appealing shall have entered into such security as he would have been required to have given had he preferred his petition of appeal to the provincial court.

Cases in which the Sudder Dewanny Adawlut are empowered to order the provincial courts to suspend the execution of decrees, appeals from which may be presented to them in the first instance.

XIII. All process, both to parties and witnesses, and every rule or order, for the execution of a decree or final order, and every other order whatever, which may issue from the Sudder Dewanny Adawlut, is to be written or printed in the Persian and Bengal languages,

All process of the Sudder Dewanny Adawlut (with the exceptions herein specified) to be issued

through the provincial courts of appeal.

in Bengal and Orissa; and in the Persian language, and the Hindoostanee language and Nagree character, in Behar; and sealed with the seal of the court, and signed by the register. All such process, rules and orders, which are to be served or executed on any parties, witnesses, or persons, (exclusive of the parties, *vukeels*, or persons, in actual attendance on the court,) are to be directed to the provincial court of the division in which the cause of action shall originally have arisen, or in which the lands may be situated, or the parties may be or reside. Every such process, rule, and order, is to limit a certain time in which it is to be served, executed, and returned to the Sudder Dewanny Adawlut. If any provincial court, to whom any process, rule, or order whatever may be directed, shall wilfully disobey, or neglect to perform the commands contained in it, or make a false return, the judges of the court who may commit such offence, shall be liable to be suspended from their office by the Sudder Dewanny Adawlut. If the Sudder Dewanny Adawlut shall suspend any judge or judges of the provincial court under this section, they are to notify the suspension to the Governor General in Council within ten days after it may take place, together with the cause of it; and certify under the seal of the court, the proceedings, depositions, and exhibits, and all other matters which may be necessary to enable the Governor General in Council to pass a determination upon the suspension, and to transmit to him on his requisition, any further papers and proceedings respecting the cause which he may deem necessary for his information. But the Sudder Dewanny Adawlut is empowered, in cases in which for the sake of expedition, or other purpose, it may judge it expedient so to do, to issue any process to parties or witnesses immediately through the proper *zillah* or city court, instead of directing it in the first instance to the provincial court of appeal. In such cases, the process is to be executed and returned directly to the Sudder Dewanny Adawlut, and the judge to whom it may be directed, is to be subject to the like penalties for making a false return, or other default in the execution of the orders contained in the process, as he would have been liable to, had the process been issued from the provincial court.

Judges of the provincial courts liable to be suspended by the Sudder Dewanny Adawlut, for refusing or omitting to obey, or to conform to, their process or requisitions.

Sudder Dewanny Adawlut to report to the Governor General in Council the suspension of judges under this section within ten days.

Cases in which the court may issue process to parties or witnesses immediately through the *zillah* or city courts.

Process of the Sudder Dewanny Adawlut, how to be served by the provincial courts.

To return the process executed, or reasons why it has not been executed.

Form and manner in which the return is to be made.

XIV. In all cases in which process, either to a party or witness, and all process whatever, and every rule or order, for the execution of any decree or final order, or any order relating to a cause depending in the Sudder Dewanny Adawlut, which may be directed by such court to any provincial court of appeal, the court to which the process may be directed, is to execute the order contained in the process, rule, or order, and return it so executed within the time limited, or return to the Sudder Dewanny Adawlut good and sufficient reason why it has not been served or executed. When any process, rule, decree, or order, for the execution of any decree or final order, or any order whatever, shall be transmitted by the Sudder Dewanny Adawlut to a provincial court of appeal to be served or executed, the return to such process, rule, order, or decree, is to be made by the court, either by endorsement on the process, rule, order, or decree, or to be written on a paper firmly annexed to it; and, if the return be made in the lastmentioned manner, there is to be an endorsement on the process, rule, order, or decree, referring the Sudder Dewanny Adawlut to the return contained in such annexed paper, and the court is to cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited amongst the records of the court. And in all cases in which the Sudder Dewanny Adawlut may transmit any order or process to be served or executed by a provincial court, against a party in a cause, and the party on whom it is to be served or executed is not, after diligent search, to be found, or shall have absconded, or shut himself up in his own or any house or building, or retired to any place, so that the process cannot be served upon him, the court to which the process may be directed is to cause to be fixed up in some conspicuous part of the room in which the court may be held, a writing (in the Persian and Bengal languages, if it be in Bengal or Orissa, and in the Persian language, and the Hindoostanee language and Nagree character, if it be in Behar) containing a copy of the order or process, and a notice that if the party shall not obey the exigence of it within the time limited, the Sudder Dewanny Adawlut will without further notice, process, or order, proceed *ex parte* to hear, try, and determine the cause to which such process or order may relate; and the court is likewise to cause a copy of such writing to be fixed up with all practicable dispatch on the outer door of the house in which the party may have commonly dwelt, or in some conspicuous place in the village in which he may have usually resided, and to return to the Sudder Dewanny Adawlut in the manner before directed how he has executed the process.

Court to cause a copy of the process and return to be deposited amongst the records of the court.

Court how to proceed in case any such process cannot be served upon the party, in consequence of his absconding or otherwise evading it.

Court to fix up a writing in the court-room, and at the place of residence of the party.

What the writing is to contain.

Sadder Dewanny Adawlut to proceed *exparte*, when the provincial courts shall report that a party has absconded, or was not to be found after the observance of the forms herein directed.

XV. If a provincial court of appeal to which any process, rule, or order of the Sudder Dewanny Adawlut, may be transmitted for the purpose of being served or executed on any party, shall return that the party has absconded, or shut himself up in in his own or any house or building, or retired to any place, so that the process could not be served upon him; or that he was not after diligent search to be found, and that they had caused the writing to be fixed up, in the places and manner directed; and the party shall not appear and obey the exigence of the process, rule, or order; the Sudder Dewanny Adawlut is to proceed *ex parte* to try and determine the cause in which the process, rule, or order shall have issued, in the same manner as if the party had appeared, and obeyed the exigence of the process.

Cases in which the Sudder Dewanny Adawlut is empowered to take new evidence in appeals, or to refer them back for further evidence to the provincial courts.

Sudder Dewanny Adawlut to state their reasons on the record of the trial, whenever they may exercise the powers above vested in them.

Courts empowered to hear the evidence in the cases above specified *viva voce*, or to order their register to take it.

XVI. The Sudder Dewanny Adawlut is empowered in cases of appeal, in which it shall appear to them that the original suit has not been sufficiently investigated in the provincial court of appeal, or for any other cause that may be deemed reasonable by the court, either to receive such further evidence as they may think necessary for the just determination of the suit, and to give judgment upon it; or, to refer the suit back to the provincial court in which it originated, accompanied by such special directions to the provincial court with regard to the new evidence they are to receive respecting it, as may be deemed by the court most conducive to justice, and the convenience of the parties and witnesses. But in every case in which the Sudder Dewanny Adawlut may exercise the power above vested in them by this section, they are to enter upon the record of the trial their reasons for having exercised it. In cases in which the court may judge it proper to receive such further evidence themselves, they are empowered, according as may deem most conducive to justice, (respect being had to the nature of the cause and the evidence,) either to examine the witnesses to be produced *viva voce*, in open court, first causing the witnesses to be sworn, and their depositions to be reduced into writing, and signed by the deponents respectively; or, to authorize their register to swear the witnesses and take their depositions, and to cause the deponents to sign them, and to authenticate them with their signatures. The register in such case is to examine the witnesses in the presence of both parties, or their *vakeels*, who are to be at liberty to put any questions to the witnesses that they may think proper; and the questions, with the answers to them, are in the same manner to be reduced into writing, signed, and authenticated. But if due notice be given to the parties or their *vakeels*, of the examination of any witness or witnesses before the register, and he or they shall not attend at the time of the examination, the register is to proceed in the examination as before directed, and the depositions are to be received as good and authentic evidence.

Cases in which the Sudder Dewanny Adawlut may dispense with the oaths of witnesses,

or direct their evidence to be taken by commission.

XVII. The Sudder Dewanny Adawlut may dispense with the oaths of the descriptions of witnesses which the *zillah* and city courts are authorized to exempt from taking oaths, on their signing in open court the declarations that are required to be subscribed by such witnesses in the *zillah* and city courts. Where witnesses may be women of the description specified in Section 6, Regulation IV. 1793, or shall reside out of the jurisdiction of the court, and at a distance from it exceeding fifty *coss*, the court may grant such commissions as the *zillah* and city courts are authorized to grant for the examination of such witnesses upon similar occasions. And the Sudder Dewanny Adawlut may issue such commissions to creditable women, and send such letters to the provincial courts for the examination of witnesses, in the cases in which the judges of the *zillah* and city courts are authorized to send such commissions and letters.

Sudder Dewanny Adawlut how to proceed where witnesses do not attend, or refuse to be sworn or to give evidence, or sign their depositions, or any persons are guilty of contempt of court, or perjury.

XVIII. If a witness duly summoned shall not attend, or attending shall refuse to be sworn or give evidence, or to subscribe his deposition, or if such witness, or any person shall be guilty of wilful or corrupt perjury in a cause depending in the court, or any contempt of court in open court, the Sudder Dewanny Adawlut are to proceed with such witness or person in the same manner as the provincial courts are authorized to deal with witnesses or persons in like manner offending.

Court to dismiss appeals if the appellants omit to proceed in them within six weeks, without shewing sufficient cause for the omission. Reasons for the dismission of the appeal to be recorded.

XIX. If the appellant, in an appeal filed in the Sudder Dewanny Adawlut, shall not proceed in the appeal for six weeks, the appeal is to be dismissed, unless the appellant shall show reasonable cause to the satisfaction of the court, for not proceeding in it; and the court may, if they shall deem it equitable so to do, award to the respondent costs of suit. But in all such cases, the court are to enter at large upon their proceedings, the grounds upon which they may permit or refuse to allow the appellant to proceed.

No persons to be heard *ex-officio* in any stage of a cause, excepting principals, their witnesses, or *vakeels* duly empowered.

XX. In such suits as by any regulation may be authorized to be tried in the first instance before the Sudder Dewanny Adawlut, and in appeals that may be heard by that court, no proceedings are to be held, nor any acts whatever done, either on behalf of the plaintiff or defendant, or the appellant or respondent, excepting by the plaintiff or defendant, the appellant or respondent respectively, or by a *vakeel* admitted to plead in the court under Regulation VII. 1793; nor by any *vakeel*, before his *vakalutnamah* shall have been filed in the court: and no persons, excepting such parties, or their witnesses, or such *vakeels*, shall be heard, *viva voce*, in any stage in the cause.

Sudder Dewanny Adawlut empowered to order the provincial courts to enforce decrees for sums of money against proprietors of land, by the same process as those courts may enforce such decrees passed by themselves.

XXI. The Sudder Dewanny Adawlut is empowered, in every case in which a sum of money is decreed to be paid by a *zemindar*, independent *talookdar*, or other actual proprietor of land, to issue an order to the proper provincial court, to execute the decree, in the same manner as the provincial courts are authorized to execute decrees by which a sum of money may be decreed to be paid by any of the descriptions of persons above mentioned.

Petitions of appeal from decisions founded on awards of arbitration to be dismissed with costs.

Exception to the rule.

XXII. If a petition of appeal shall be preferred against the decision of any provincial court of appeal founded on an award of arbitration, it is to be dismissed with costs, unless it be fully proved to the satisfaction of the court by the oaths of two creditable witnesses, that the arbitrators have been guilty of gross corruption or partiality in the cause in which they have made the award.

Court empowered to authorize the provincial, *zillah*, and city courts, to make occasional adjournments.

XXIII. The Sudder Dewanny Adawlut is empowered to permit the judges of the provincial courts of appeal, and the *zillah* and city courts, to adjourn their respective courts occasionally for any period not exceeding one month, so that such adjournments collectively do not exceed two months in each year.

Sudder Dewanny Adawlut how to proceed against *zemindars*, independent *talookdars*, or other actual proprietors of land, or dependant *talookdars*, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Decree to be passed if the offender shall not appear, or shall appear, and be proved guilty of the charge.

XXIV. If a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, shall resist or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the Sudder Dewanny Adawlut, the court, on proof of the resistance being made by oath to their satisfaction, are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time, or if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court are to decree that the offender shall from the date of their decree, forfeit his *zemindaree*, *talook*, or other estate, in which such resistance shall have been made, or, if the resistance shall have been made out of the limits of the estate of the offender, the *zemindaree*, *talook*, or other landed property, which he may possess within the jurisdiction of the *zillah* court to which the execution of the process resisted may have been committed. The court is immediately to forward a copy of their decree and proceedings to the Governor General in Council. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the lands of any person forfeited under this section, either to order it to be executed, or to commute the forfeiture for such fine, as, upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court, upon receiving notice of the fine that he may impose, are to levy the amount of it by the same process by which they are directed to enforce their decrees. But if the Governor General in Council shall not within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture for a fine, the decree is to stand good against the offender. In such case, or in the event of the Governor General in Council ordering the decree to be executed, the court is to issue a precept, under the seal of the court and the signature of the register, requiring the collector of the revenue of the *zillah* to depute an *ameen*, with a proper establishment of officers, (whose allowances are to be specified in the precept,) to sequester the lands, and collect the rents and revenues. If the lands of the defaulter shall be deemed by the court too inconsiderable to admit of their being charged with the expence of an *ameen*, they are to direct a precept to be issued to the collector of the

A copy of the decree to be sent to the Governor General in Council.

If the lands are decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine within four weeks after he may receive the decree.

If the forfeiture is commuted for a fine, how the amount is to be levied.

Decree of forfeiture to be final, if the Governor General in Council shall not order it to be executed, or commute it for a fine within four weeks.

If the decree is declared, or becomes final, the court is to issue process to the collector to sequester the lands.

zillah, to order the nearest *tehsildar*, or other officer employed under him, in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to *ameens* in such cases, and under the same restrictions and penalties.

XXV. If the decree adjudging the lands of the offender forfeited shall be confirmed, or stand good under Section 24, it shall be at the option of the Governor General in Council either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due to Government from the offender on account of the lands forfeited, and to pay the fixed public revenue assessed upon them, or, if it be a dependant *talook*, the revenue payable from it to the proprietor within whose estate it may be situated; or, to order the lands to be disposed of at public sale under the rules prescribed for the sale of lands so forfeited in Regulation XLV. 1793.

If the forfeiture should stand confirmed, the Governor General in Council may confer the estate on the heirs of the offender, or dispose of it at public sale.

XXVI. If a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the Sudder Dewanny Adawlut, the court, on proof of the resistance being made by oath to their satisfaction, are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to decree the lease cancelled from the expiration of the Bengal, Fussily, or Willaity year, (according as the farm may be situated in Bengal, Behar, or Orissa,) in which the decree may be passed. The Sudder Dewanny Adawlut is immediately to forward a copy of the decree and proceedings to the Governor General in Council. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine, as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or, if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the court, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. But if the Governor General in Council shall not within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture of the lease for a fine, the decree is to stand good against the offender, and the court is without delay to cause a copy of the decree to be sent to the collector. If the lease of the offender shall be annulled, and a balance should be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector of the revenue of the *zillah* is empowered to proceed against them for the recovery of it, in the manner prescribed in Section 20, Regulation XIV. 1793, for the recovery of balances due from farmers whose leases may be declared annulled under that regulation. The offender is permitted to prosecute in the *dewanny adawlut* of the *zillah* in which the farm may be situated, the dependant *talookdars*, under-farmers, and *ryots* in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Sudder Dewanny Adawlut how to proceed against persons holding farms of Government, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Decree to be passed by the court, if the offender shall not appear, or shall appear and be proved guilty of the charge.

A copy of the decree to be sent to the Governor General in Council.

Option reserved to the Governor General in Council to confirm the decree or commute it for a fine, and to compel the farmer to perform the conditions of his lease.

How such fines are to be levied.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

Farmers whose leases may be cancelled how to recover balances.

XXVII. If any person, not being a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, or a farmer of land, holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the Sudder Dewanny Adawlut, the court, on proof of the resistance being made by oath to its satisfaction, is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own, or any house or building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with

Court how to proceed against persons resisting process who are not proprietors of land, *talookdars*, or farmers.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

No appeals to be received from decrees of the courts of *mofussil dewanny adawlut* passed before the 1st May 1793, that were final by the regulations which existed when they were given.

II. The provincial courts of appeal, and the Sudder Dewanny Adawlut, are prohibited admitting an appeal from any decision passed subsequent to the 6th April 1781, and previous to the 1st May 1793, by any of the late courts of *mofussil dewanny adawlut* established in the several collectorships (now denominated *zillahs*), and in the cities of Patna, Dacca, and Moorshedabad, where the decree is for any *zemindaree*, *talookdaree*, *chowdrai*, or other land or house being *lakheraje*, the stated annual produce of which shall not exceed the sum of one hundred rupees; or, where the decree is for any *ayma* land paying a quit rent to Government not exceeding the annual amount of fifty sicca rupees; or where the decree is for any *zemindaree*, *talookdaree*, or *chowdrai*, or any house or land being *malguzaree*, where the stated *jumma* or annual revenue payable to Government shall not exceed one thousand sicca rupees; and in all other cases where the decree is for any sum of money or thing, the amount or value of which shall not exceed the sum of one thousand sicca rupees.

Exception to the rule.

Provided, however, that if the provincial courts of appeal shall have admitted any appeals previous to the date of this regulation, either of their own authority, or pursuant to orders from the Governor General in Council, or the Sudder Dewanny Adawlut, from decisions passed by any *mofussil dewanny adawlut* prior to the 1st May 1793, in any causes which were not appealable by the regulations that existed when the decrees were given, they shall try and decide such appeals, notwithstanding any thing that may be said to the contrary in this regulation.

Provincial courts to exercise with caution the powers vested in them of admitting appeals after the limited time.

III. As all property held under decrees passed by the late courts of *mofussil dewanny adawlut* previous to the 1st May 1793, which were appealable under the regulations that were in force when the decrees were given, and also under decrees of the *zillah* and city courts which have been passed subsequent to the 1st May 1793, or that may be hereafter passed by those courts, would be considered to be insecure, were it always liable to be again contested after the elapse of the period limited for appealing from the decrees, the provincial courts of appeal are to exercise with due caution the power vested in them by Section 12, Regulation V. 1793, of admitting appeals from decrees of the late courts of *mofussil dewanny adawlut*, passed previous to the 1st May 1793, which were not final by the regulations that existed when the decrees were given, and also from decrees that have been passed by any *zillah* or city court since the 1st May 1793, or that may be hereafter given by those courts, where the petition of appeal shall have been presented after the limited period of three calender months. Upon the principles above stated, they are also to be careful not to try any appeal, although the petition of appeal shall have been filed within the prescribed time, or admitted after the elapse of it, where the appellant shall have omitted to proceed in the appeal for six weeks, unless he can show good and satisfactory cause for the omission, as required in Section 21, Regulation V. 1793.

And also of trying appeals after the appellant has omitted to proceed in them for six weeks.

A. D. 1795. REGULATION X.

A REGULATION *for empowering the Sudder Dewanny Adawlut, to receive and decide upon Appeals from Decisions of the Provincial Court of Appeal established in the Province of Benares; and for defining the Jurisdiction, Powers, and Authorities, of the Sudder Dewanny Adawlut in that Province.*—PASSED *by the Governor General in Council, on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE establishment of the city court, and the three *zillah* courts, and a provincial court of appeal, in the province of Benares, with powers nearly similar to those vested in the city and *zillah* courts, and the provincial courts of appeal, in the three provinces of Bengal, Behar, and Orissa, rendering it necessary that the rules for receiving and deciding on appeals to the Sudder Dewanny Adawlut, from the decisions of the provincial courts in those three provinces, with certain exceptions and alterations, should be extended to appeals to the Sudder Dewanny Adawlut, from decisions passed by the provincial court of appeal established in the province of Benares; and that the Sudder Dewanny Adawlut should be vested with the same jurisdiction, powers, and authorities, in the province of Benares, as in the provinces of Bengal, Behar, and Orissa; the following rules have been enacted.

Rules regarding appeals from the decisions of the provincial courts of appeal in the provinces, and the other matters specified in Regulation VI. 1793, extended to the province of Benares, with certain exceptions and alterations.

II. With the alterations and exceptions specified in the following sections, all the rules contained in Regulation VI. 1793, for receiving and deciding upon appeals from the decisions of the provincial courts of appeal, in the several divisions in the provinces of Bengal, Behar, and Orissa, are to be considered as the rules for receiving and deciding upon appeals to the Sudder Dewanny Adawlut, from the decisions of the provincial court of appeal established in Benares; and the jurisdiction, powers, and authorities, vested by that regulation, in the Sudder Dewanny Adawlut, in the provinces of Bengal, Behar, and Orissa, are declared to extend to the province of Benares.

Section 9, and the clause of Section 10, herein specified, not to extend to Benares.

III. The rules contained in Section 9, and the following clause in Section 10, are declared not to extend to the province of Benares: "and in admitting such appeals, they are to observe the caution prescribed in clause second, Section 9, with regard to the trial or admission of the appeals therein alluded to, after the limited period."

All process of the Sudder Dewanny Adawlut in Benares, to be written in the same languages and characters as in Behar.

IV. All decrees, orders, and process whatever, of the Sudder Dewanny Adawlut, in the province of Benares, are to be written in the same languages and characters, as in the province of Behar.

Rules respecting resistance to the orders, or any process of the court in the *zillahs*, to be considered as applicable to the same offence committed in the jurisdiction of the city court.

V. The rules prescribed in Regulation VI. 1793, and this regulation, respecting any *zemindar, talookdar*, or other proprietor of land, or farmer of land, or other person in the *zillahs*, who may resist, or cause to be resisted, any process, rule, order, or decree of the Sudder Dewanny Adawlut, are to be considered as extending to any such person, who may be guilty of the same offence in the jurisdiction of the city court.

What officer the court is to order to take charge of lands adjudged forfeited under Section 24.

VI. Where decrees of forfeiture may be ordered to be executed under Section 24, the court by which the decree is to be executed, is to issue a precept, under the seal of the court and the signature of the register, requiring the collector of the revenue to order the nearest *tahsildar*, or other officer employed under him in the business of the collections, to take charge of the lands.

Rule substituted in the room of Section 25.

How lands forfeited as-fore Section 24, are to be disposed of.

VII. *First.* The following rule is substituted in lieu of Section 25.

Second. If the decree adjudging the lands of the offender forfeited, shall be confirmed or stand good under Section 24, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever, that may be due from him to Government on account of the lands forfeited, and to pay the fixed public revenue assessed upon them, or, if it be a common or distinct *puttedarce*, the revenue payable from it to the principal proprietor or proprietors, or to the *pottah*-holder or *pottah*-holders in whose *pottah* the lands may be included; or, to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited in Regulation XX. 1795.

Leases of farmers annulled under Section 20, to stand cancelled from the end of the Fussily year.

VIII. Leases of farmers finally adjudged annulled under Section 26, are to stand cancelled from the end of the Fussily year, agreeably to the principle prescribed by that section in similar cases, in Bengal, Behar, and Orissa.

Collector to proceed against farmers whose leases may be annulled under Section 26, and their sureties, for arrears, in the manner specified in Regulation VI. 1795.

How the offender is to recover arrears due to him in the farm.

IX. The collector is to proceed against farmers whose leases may be annulled under Section 26, and their sureties, for the recovery of any arrears that may be due from them, in the manner specified in Regulation VI. 1795, instead of Section 20, Regulation XIV. 1793, as directed in the first-mentioned section, for the recovery of balances due from farmers, whose leases may be adjudged annulled for resistance to the process of the collector, or their sureties. The offender is permitted to prosecute in the *dewanny adawlut* in the jurisdiction of which the farm may be situated, the *zemindars*, *talookdars*, *putteedars*, distinct or common, under-farmers, and *ryots*, in the lands included in the farm, for any arrears of rent or revenue, that may be due from them to him, on account of the period during which his lease remained in force.

Power vested in the Sudder Dewanny Adawlut to order claims to be tried, although they shall have originated more than twelve years previous to any suit being commenced on account of them.

X. The court of Sudder Dewanny Adawlut is vested with a discretionary power, similar to that formerly exercised by the resident, as judge of the court of appeal which existed in the province of Benares previous to the abolition of the residency, of dispensing with that part of Section 8, Regulation VII. 1795, which prohibits the courts from taking cognizance of any claims, where the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it, and to issue a precept to the proper court to take cognizance of the suit. The court are to record their reasons for every exercise of this power.

A. D. 1795. REGULATION XXXVII.

A REGULATION *for better enabling the Sudder Dewanny Adawlut to judge of the Progress made by the Zillah and City Courts, and the Provincial Courts of Appeal, in determining the Suits now depending before them, and also of the Expedition with which Suits hereafter filed may be decided.*—PASSED *by the Governor General in Council, on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaun* 1209 *Higeree.*

Preamble.

TO assist the court of Sudder Dewanny Adawlut in forming a judgment of the progress made by the *zillah* and city courts, and the provincial courts of appeal, in determining the suits now depending before them, and also of the expedition with which suits hereafter filed may be decided, the following rules are enacted:

Register to submit to the court a monthly report on the abstract registers of the *zillah* and city courts.

What the register's report is to contain.

II. By the last day of each month, the register to the Sudder Dewanny Adawlut shall prepare to be submitted to the court at their next meeting, a general report on the abstract registers required to be furnished by the *zillah* and city courts by Section 11, Regulation XVIII. 1793, for the preceding month. The report is to specify the number of suits appearing in the abstract register of each court to have been determined by the judge, and by his register under Regulation VIII. 1793, and by the native commissioners appointed under Regulation XI. 1793, or adjusted by the parties.

Register to submit a monthly report on the abstract registers of the provincial courts of appeal.

III. The register is likewise to prepare by the last day of each month, to be submitted to the court at their next meeting, a report on the abstract registers required to be furnished by the provincial courts of appeal by Section 15, Regulation XVIII. 1793, specifying the number of appeals and causes determined or adjusted in the courts in the preceding month.

Report to be submitted by the register on the half yearly reports of the *zillah* and city courts of causes remaining undecided.

IV. On the 15th of February, and the 15th of August in each year, or at the first court which may be held after those dates respectively, the register shall submit to the court a report on the last half yearly reports of causes depending in the *zillah* and city courts, which they are required to furnish by Section 12, Regulation XVIII. 1793. The report shall specify the number of causes depending before the judge, the register, and the native commissioners, in each *zillah* and city and the number of causes depending in the preceding half yearly report, so as to exhibit a comparative statement of the number of suits depending at the period of the transmission of the two reports. The register is to annex to his report, a summary of the reasons assigned by the several courts for any causes remaining undecided, which may have been inserted as depending in any of their preceding half-yearly reports.

Register to submit a similar statement of suits depending in the provincial courts of appeal at the periods of the transmission of their two last half-yearly reports.

V. The register is likewise to submit with the report required in the preceding section, a similar report on the causes depending in the provincial courts of appeal, as appearing in their two last half-yearly reports.

Register to notice in his report what abstract registers or half yearly reports have not been transmitted.

VI. In the event of any of the *zillah* or city courts, or provincial courts of appeal, omitting to forward their monthly abstract registers, or half yearly reports, in time to enable the register to submit the reports and statements above required, he is to notice the omission in his report, with the reasons for the deficient reports not having been forwarded, should any have been assigned by the courts.

VII.

Rules for facilitating the preparing of the register's reports.

VII. *First.* To enable the register to prepare the required reports and statements with greater facility, the following rules are prescribed.

Abstract to be inserted by the judges of the *zillahs* and cities at the foot of their monthly abstract registers.

Second. The judges of the *zillahs* and cities are directed to insert at the bottom of their monthly abstract registers, an abstract of the number of causes determined as follows.

BY THE JUDGE.

In appeal from decisions of the register.

Decreed or dismissed,	2
Adjusted by *razeenamahs* of the parties,	2
	— 4

In appeal from decisions of the native commissioners.

Decreed or dismissed,	2
Adjusted by *razeenamahs* of the parties,	2
	— 4

Tried in the first instance by the Judge.

Decreed or dismissed,	2
Adjusted by *razeenamahs* of the parties,	2
	— 4
	—12

BY THE REGISTER.

Decreed or dismissed,	2
Adjusted by *razeenamahs*,	2
	— 4

BY THE NATIVE COMMISSIONERS.

Decreed or dismissed,	2
Adjusted by *razeenamahs* of the parties,	2
	— 4
Total,	20

Abstract to be inserted by the judges of the *zillahs* and cities at the foot of their half yearly reports.

Third. The judges of the *zillahs* and cities are to insert at the bottom of their half-yearly reports of causes remaining undecided, the number of suits depending as follows:

DEPENDING BEFORE THE JUDGE.

In appeal from decisions of the register,	2
In appeal from decisions of the commissioners,	2
Under trial before the judge in the first instance,	2
	— 6
DEPENDING BEFORE THE REGISTER,	2
DEPENDING BEFORE THE COMMISSIONERS,	2
Total,	10

Abstract to be inserted by the provincial courts of appeal at the foot of their monthly abstract registers.

Fourth. The provincial courts of appeal are to insert at the bottom of their monthly abstract registers, an abstract of the number of appeals or causes determined by them in the month as follows:

Appeals.

Decreed or dismissed,	2
Adjusted by the *razeenamahs* of the parties,	2
	— 4

Causes tried before the court in the first instance.

Decreed or dismissed,	2
Adjusted by the *razeenamahs* of the parties,	2
	— 4
Total	8

Fifth. The provincial courts of appeal are to insert at the bottom of their half-yearly reports, an abstract of the number of appeals or causes depending before them as follows:

Appeals,	2
Causes under trial before the court in the first instance,	2
Total	4

A. D. 1797. REGULATION XII.

A REGULATION *for the further Limitation of Appeals to the Court of Sudder Dewanny Adawlut in Suits for personal Property; and for altering and explaining Part of the existing Rules for Appeals to that Court; and to the Provincial Courts of Appeal.*—PASSED *by the Governor General in Council, on the 27th October* 1797; *corresponding with the* 13*th Kautick* 1204 *Bengal era; the* 22*d Kautick* 1205 *Fussily; the* 13*th Kautick* 1205 *Willaity; the* 22*d Kautick* 1854 *Sumbut; and the* 6*th Jemaud-ul-Awal* 1212 *Higeree.*

Preamble.

THE appeal allowed by Section 10. of Regulation VI. 1793, to the court of Sudder Dewanny Adawlut from the decrees of the provincial courts of appeal for money or other personal property exceeding a thousand sicca rupees, having been found to occupy too much of the time of the Sudder Dewanny Adawlut upon suits of small amount, and to have thereby prevented their decision upon suits of greater magnitude; and the option given by the above regulation to appellants, to prefer their petitions of appeal to the Sudder Dewanny Adawlut, or to the provincial court in which the decree appealed against may have been passed, having been found productive of much occasional delay in the admission of appeals, from the necessity of frequent references for information to the provincial courts, in cases wherein the petition of appeal has been presented in the first instance to the Sudder Dewanny Adawlut; to obviate these inconveniences; and further to explain certain parts of the abovementioned section of Regulation VI. 1793; as well as a corresponding section in Regulation V. 1793; the Governor General in Council has enacted the following rules, to be considered in force in the provinces of Bengal, Behar, Orissa, and Benares, from 1st January 1798, corresponding with the 20th Poose 1204 Bengal era; the 28th Poose 1205 Fussily; the 20th Poose 1205 Willaity; the 28th Poose 1854 Sumbut; and the 13th Shaher Rejeb 1212 Higeree.

Part of Section 10. of Regulation VI. 1793, rescinded.

Decrees of provincial courts for money, or personal property not exceeding five thousand sicca rupees, declared final.

Construction to be put on this regulation in cases wherein the cause of action may have exceeded five thousand sicca rupees.

Standard for determining right to appeal under this and former regulations relative to appeals.

II. Such part of Section 10. of Regulation VI. 1793, as allows an appeal to the court of Sudder Dewanny Adawlut from decrees passed by the provincial courts of appeal for money or other personal property not exceeding one thousand sicca rupees is hereby rescinded; and in future the decrees of the several provincial courts of appeal for money or personal property not exceeding in amount or value the sum of five thousand sicca rupees shall be held final. That no doubt may arise whether a suit is to be considered appealable, in which the original cause of action may have exceeded five thousand sicca rupees, and the decree of the provincial court be for a sum not exceeding that amount; viz. either adjudging a sum not exceeding five thousand sicca rupees against the party desiring to appeal; or disallowing his claim to that amount only; it is declared that such cases are not appealable; the amount adjudged against the party desiring to appeal, or the amount of his claim disallowed by the decree from which he may desire to appeal, being the standard for determining his right to appeal, under the limitations prescribed by this regulation, as well as by all former regulations relative to appeals, whether to the Sudder Dewanny Adawlut from the decrees of the provincial courts of appeal, or to the provincial courts from the decisions of the *zillah* and city courts; or to the judges of these courts from the decisions passed by their registers under the powers vested in them by Regulation VIII. 1794.

III.

Option given to appellants by Section 10. of Regulation VI. 1793, revoked.

Appellants to the Sudder Dewanny Adawlut to present their petitions of appeal in the first instance to the provincial court in which the decree appealed from may have been passed.

Explanation of Section 10. Regulation VI. 1793, respecting securities required from appellants.

III. The option given by Section 10. of Regulation VI. 1793, to persons desirous of appealing to the Sudder Dewanny Adawlut, either to present their petitions of appeal to the court in which the decree appealed against may have been passed, or to the Sudder Dewanny Adawlut, is hereby revoked, and all persons desirous of appealing to the above court are required to present their petition of appeal in the first instance to the provincial court wherein the decree appealed against may have been passed; which court will proceed thereupon as directed by the above regulation; observing that, in the section referred to, the securities required previous to the admission of an appeal are not meant to extend to the security required by the same section for staying the execution of the decree appealed against, as from the expression "securities" has in some instances been supposed; whereas the only security required by the above regulation for the admission of an appeal is for the eventual costs of the appeal, (exclusive of *vakeel's* fees, for which separate security is required by Section 9. of Regulation VII. 1793,) and the performance of the decree which may be passed upon it; under a provision that the security so to be taken, be not in any case for a greater sum than five hundred sicca rupees. The written notice to appellants directed in the latter part of the abovementioned section of Regulation VI. 1793, "that within fifteen days the proceedings held in the cause appealed will be certified to the Sudder Dewanny Adawlut, and that if the appellant shall not proceed in the appeal within six weeks after it may be filed in that court, the appeal will be dismissed, unless he shall shew reasonable cause to the satisfaction of the court for not having proceeded in it," having been understood to apply to the filing of the proceedings of the appealed cause, instead of the petition of appeal; it is further to be observed, that the notice in question was meant to apply to the filing of the petition of appeal, and is to be so expressed in all future notifications to appellants under the regulation referred to, with a specification of the date on which the petition of appeal may be transmitted to the Sudder Dewanny Adawlut.

Explanation respecting notice to appellants directed by the above section.

Provincial courts on rejecting a petition of appeal to the Sudder Dewanny Adawlut, to furnish appellant with a copy of their order for such rejection.

And appellant at liberty to present his petition of appeal to the Sudder Dewanny Adawlut under restrictions prescribed by Section 10. of Regulation VI. 1793, and this regulation.

In the event of the petition for an appeal to the Sudder Dewanny Adawlut being rejected, on whatever ground, by a provincial court, such court shall, on the court day next ensuing, or as soon afterwards as may be practicable, cause the appellant to be furnished with a copy of their order for rejecting the appeal; and the appellant shall be still at liberty to present his petition of appeal to the Sudder Dewanny Adawlut in the mode, and under the restrictions prescribed by Section 10. of Regulation VI. 1793; provided that such petition set forth the previous application made to the provincial court and the rejection of the appeal by that court; and be accompanied by a copy of the order of rejection, or by a declaration that such copy was applied for ten days after the same was passed, and not obtained.

Provisions and explanations in Section 3. of this regulation, to be applied in substance to Section 12. of Regulation V. 1793.

IV. The provisions and explanations contained in the foregoing third section of this regulation, are to be considered equally applicable, in their purport and effect, to Section 12. of Regulation V. 1793; relative to appeals to the provincial courts; which are to be hereafter preferred in the first instance to the *zillah* or city court in which the decree appealed against may have been passed; with liberty to the appellant whose appeal may be rejected, to present a second petition of appeal to the provincial court under the restriction above stated in respect to appeals to the Sudder Dewanny Adawlut.

A. D. 1797. REGULATION XVI.

A REGULATION *respecting Appeals from the Court of Sudder Dewanny Adawlut to his Most Excellent Majesty and his Most Honourable Privy Council.*—PASSED *by the Governor General in Council, on the* 24*th November* 1797; *corresponding with the* 11*th Aughun* 1204 *Bengal era; the* 20*th Aughun* 1205 *Fussily; the* 11*th Aughun* 1205 *Willaity; the* 20*th Aughun* 1854 *Sumbut; and the* 4*th Jumaud-us-Sauce* 1212 *Higeree.*

Preamble.

BY Section 29. Regulation VI. 1793, the decrees of the Sudder Dewanny Adawlut are declared final with respect to the local jurisdictions referred to in that regulation; which however had no reference to the appeal to his Majesty in Council allowed by the 21st Section of the statute 21 Georgii III. Cap. LXX. in the following terms:—"And whereas the Governor General in Council, or some committee thereof, or appointed thereby, do determine on appeals and references from the country or provincial courts in civil causes; be it further enacted, that the said court shall and lawfully may hold all such pleas and appeals in the manner, and with such powers as it hitherto had held the same; and shall be deemed in law a court of record; and the judgments therein given shall be final and conclusive, except upon appeal to his Majesty in civil suits only, the value of which shall be five thousand pounds and upwards." No rules having been prescribed respecting the appeals authorized by the statue above quoted; and it being necessary to establish such, as well for the information of the parties who may be desirous to appeal from decrees of the Sudder Dewanny Adawlut to the King in Council, as for the guidance of that court in receiving and forwarding the appeals presented to them under the above authority; the Governor General in Council has referred to the provisions made for the appeal to the King in Council under his Majesty's charter for erecting the Supreme Court of Judicature at this presidency; as well as to the rules and orders framed by the said Supreme Court of Judicature, and approved by his Majesty in Council as provided by his charter aforesaid; and after due consideration of the said provisions, rules, and orders, has resolved, that the following rules relative to appeals to the King in his Privy Council against decisions passed by the court of Sudder Dewanny Adawlut, shall be in force until his Majesty's pleasure be known thereupon, from the 1st January 1798, corresponding with the 20th Poose 1205 Bengal era; the 28th Poose 1205 Fussily; the 20th Poose 1205 Willaity; the 28th Poose 1854 Sumbut; and the 13th Rejeb 1212 Higeree.

Petitions of appeal to the King in Council shall be presented to the Sudder Dewanny Adawlut within six months; and

II. All persons desirous of appealing from a judgment of the court of Sudder Dewanny Adawlut to the King in Council under the authority for this purpose contained in the 21st Section of the statute 21 Georgii III. Cap. LXX. are required to present their petition of appeal to the court of Sudder Dewanny Adawlut, either themselves or through one of the authorized pleaders of that court, duly empowered to present such petition in their behalf, within six calendar months from the date on which the judgment appealed against may have been passed; under which provision, and provided also the judgment appealed against shall, exclusive of costs of suit, be to the value of five thousand pounds (to be calculated as hereafter mentioned), the court of Sudder Dewanny Adawlut are to admit the appeal; and proceed upon it as directed in the following sections of this regulation under the several restrictions therein prescribed.

Such appeal to be admitted, provided the judgment appealed against shall, exclusive of costs, amount to £5,000 sterling.

Appealable sum to be computed at the rate of ten current rupees per pound sterling.

III. For the purpose of determining what causes are appealable to his Majesty in Council, under the limitation of five thousand pounds and upwards, the pound sterling shall be computed at the rate of ten current rupees, being about the medium of the usual rates of exchange; and consequently making five thousand pounds equivalent to fifty thousand current rupees, or (excluding fractions) sicca rupees forty-three thousand one hundred and three. Under this computation the value of the property constituting the subject of the judgment appealed against, is to be determined according to the nature of such property, whether land, money, effects, or otherwise, according to the general rules prescribed in like cases for determining the value of the same property when constituting the cause of action in the Sudder Dewanny Adawlut, and the several civil courts subordinate thereto.

Value of property to be computed according to the general rules prescribed in like cases for the guidance of the Sudder Dewanny Adawlut.

The court may either order their judgment to be carried into execution, taking security from the party in whose favour the decree may have been passed to abide the event of the appeal; or suspend the execution, taking the like security from the party left in possession. Appellants in all cases to give security for payment of costs, and for the performance of the final order or judgment on the appeal. Appeal to be declared admitted on receiving such security, and notice to be given to the parties to prosecute and defend the same according to the established mode of proceeding.

IV. In cases of appeal to his Majesty in Council, the court of Sudder Dewanny Adawlut may either order the judgment passed by them to be carried into execution, taking sufficient security from the party in whose favour the same may be passed for the due performance of such order or decree as his Majesty, his heirs or successors, shall think fit to make on the appeal; or to suspend the execution of their judgment during the appeal, taking the like security in the latter case from the party left in possession of the property adjudged against him: but in all cases security is to be given by appellants to the satisfaction of the Sudder Dewanny Adawlut for the payment of all such costs as the said court may think likely to be incurred by the appeal, as well as for the performance of such order or judgment as his Majesty, his heirs or successors, may think fit to give thereupon: and after receiving such security, the court of Sudder Dewanny Adawlut are to declare the appeal admitted, and to give notice thereof to the appellant and respondent respectively; that they may take measures, the one to prosecute, the other to defend, the cause in appeal before his Majesty in Privy Council, according to the established mode of proceeding in similar cases.

In all cases of appeal, two copies of all proceedings to be prepared in English, and translations under the official seal and signature of the register, to the Governor General in Council, to be forwarded to his Majesty in Council.

V. In all cases wherein the Sudder Dewanny Adawlut may admit an appeal to the King in Council, they are to cause two exact copies to be made of all the proceedings held and judgments or orders given in the case appealed, including the whole of the evidence and documents, (translated into English, if the original documents be in any of the country languages,) and are to transmit the same as soon as prepared under their official seal, and the signature of their register, to the Governor General in Council, for the purpose of being forwarded by the first secure and separate conveyances to his Majesty in Council. The register to the Sudder Dewanny Adawlut shall also, on the application of the appellant, or respondent, furnish him or them with one or more copies of the proceedings held, and judgments or orders passed in the case appealed, provided they respectively agree to defray such expence as may be incurred thereby; but not otherwise: and the register is not to deliver such copies when prepared without the previous payment of the expence incurred thereby, the amount of which is to be carried to the credit of Government, by whom the necessary expenditure on this account will be made in the first instance.

The parties also to be furnished with copies of the proceedings on application, provided they agree to pay the expence of preparing the same.

Copies of any local regulation under which the judgment may have been passed, or which may have been referred to, to accompany the proceedings.

VI. In case the judgment appealed from shall have been passed in pursuance of any local regulation or regulations enacted by the Governor General in Council; or in case any such regulation shall have been referred to in the judgments passed by any of the courts wherein the cause appealed from may have been tried and decided, a copy of such regulation or regulations, or an extract therefrom containing all that has reference to the matter at issue, shall be annexed to the several copies of the proceedings prepared in conformity to the preceding section, whether for delivery to the parties, or for transmission to his Majesty in Council.

Nothing herein contained to be understood to bar the exercise of his Majesty's pleasure upon all appeals to him, either in rejecting or admitting such as he may think proper under the statute.

VII. Provided always that nothing in this regulation is to be understood to bar the full and unqualified exercise of his Majesty's pleasure upon all appeals to him from the decisions of the Sudder Dewanny Adawlut, either in rejecting any he may consider inadmissible under the statute respecting such appeals; or in receiving any he may judge admissible, notwithstanding the provisions made in this regulation; which has reference to the local jurisdiction only, and particularly to that of the Sudder Dewanny Adawlut, as a necessary rule for their guidance, subject, in the whole of its provisions, to the ultimate determination of his Majesty in Council.

A. D. 1798. REGULATION V.

A REGULATION *for the further Limitation of Appeals to the Court of Sudder Dewanny Adawlut; for providing further Security during Appeals in certain Cases; and for explaining and amending certain Parts of the existing Regulations relative to the Fee payable to Government on the Institution of Suits in the civil Courts; and the Fees of the Pleaders in those Courts; also for discontinuing the Records of decided Causes, required by Sections* 10 *and* 14. *of Regulation XVIII.* 1793.—PASSED *by the Governor General in Council, on the* 5*th July* 1798; *corresponding with the* 24*th Assar* 1205 *Bengal era; the* 7*th Sawun* 1205 *Fussily; the* 24*th Assar* 1205 *Willaity; the* 7*th Sawun* 1855 *Sumbut; and the* 19*th Mohurrum* 1213 *Higeree.*

BY Section 2, Regulation XII. 1797, the decrees of the provincial courts are declared final, to the amount of five thousand sicca rupees, in suits for money, or personal property only. This limitation has been found insufficient to answer effectually the purposes thereby intended: and the experience which the provincial courts have now had in the investigation of suits for land, and other real property, renders it no longer necessary to continue the distinction heretofore made in appeals, between personal property and its equivalent value in real property. The security, also, required from appellants by Section 2, of Regulation XIII. 1797, though in most instances adequate to secure the party who may have obtained a judgment in his favour, either in a *zillah* or city court, or in a provincial court of appeal, from any ultimate loss in consequence of the suspension of the execution of the decree during the appeal, may from unforeseen delay in the decision in some cases, and particularly where the judgment is for *lakheraje* land, be insufficient for the purposes required. Doubts likewise have been entertained whether the fees on the institution of suits, fixed by Section 4, Regulation VI. 1797, are intended to be levied on summary suits instituted under Regulation XLIX. 1793, and Regulations XIV. and XXXV. 1795; as well as how far the decisions of the *zillah* and city courts in such summary suits, are subject to an appeal to the provincial courts of appeal, and ultimately to the Sudder Dewanny Adawlut. Further, certain parts of Regulation VII. 1793, respecting fees of pleaders, and the mode of calculating such fees, have been found not sufficiently explicit, and otherwise defective: and it has also been found, that the complete record of decided causes, required by Sections 10, and 14, Regulation XVIII. 1793, cannot be duly kept up without a very considerable annual expence; in consideration of which, and as the necessity of such record is in a great measure done away by Section 13, Regulation V. 1795, and Section 11, Regulation VI. 1793, (whereby the *zillah*, city, and provincial courts, are required to keep authenticated copies of all original papers transmitted by them in appeal,) the Governor General in Council considers it expedient to discontinue the record in question. For this purpose, therefore, and to remedy the defects and obviate the doubts above noticed, as well as to make the further provisions herein after stated, the following rules have been enacted; to be considered in force from the time of their promulgation (except where otherwise specially provided) in the provinces of Bengal, Behar, Orissa, and Benares.

Section 2, of Regulation XII. 1797, extended from the 1st of October next, to decrees passed by provincial courts for land or other real property not exceeding in value five thousand sicca rupees.

Mode of estimating value in such cases.

II. The rule contained in Section 2, Regulation XII. 1797, whereby the decrees of the several provincial courts of appeal for money or personal property, not exceeding in amount or value five thousand sicca rupees, are declared final, is hereby extended from the first of October next, to all decrees passed by the above courts in the provinces of Bengal, Behar, Orissa, and Benares, respectively, for land or other real property not exceeding in value the sum of five thousand sicca rupees, according to the usual mode of estimating the value of such property, viz. if the land be *mulguzaree* (paying revenue to Government) the annual produce of which as described in Section 3, Regulation IV. 1793, may not exceed five thousand sicca rupees per annum; or if the land be *lakheraj* (exempt from the payment of revenue to Government) the annual produce of which, as described in the abovementioned regulation, may not exceed five hundred sicca rupees per annum; or, if the property adjudged be a house, tank, garden, or real property of any other description than the foregoing, the computed value of which may not exceed the sum of sicca rupees five thousand. The above limitations are respectively to be considered subject to the general rule prescribed in Section 2, of Regulation XII. 1797, for determining what judgments are appealable: but nothing herein contained is to be understood to preclude an appeal to the Sudder Dewanny Adawlut in any cases now appealable to that court, and which may be decided by the provincial courts of appeal before the first day of October next, nor is it meant to affect any of the existing rules relative to appeals, except in the limitation of the amount appealable, as herein provided.

General rule in Section 2, Regulation XII. of 1797, applicable to the above limitations.

Not to preclude an appeal to the Sudder Dewanny Adawlut in cases decided before the 1st October next.

Courts of appeal may in particular cases require further security during appeals, if, on application of the parties, the security taken appear insufficient.

In default of such further security being given by appellants, the judgment to be executed

provided the prescribed security be given by the respondent.

III. Notwithstanding the appellants, in causes depending before the Sudder Dewanny Adawlut, and the provincial courts of appeal, may have entered into the security required of them by Section 2, of Regulation XIII. 1796, those courts are authorized, in cases wherein, from delay in the decision, the security so given may appear insufficient, on the application of the respondent or respondents in all such cases, to require any additional security which they may deem necessary to secure the party who may have obtained a judgment in his favour, from any loss by the non-execution of such judgment during the appeal; and in default of such further security being given within a reasonable period, to be fixed for that purpose, the courts are empowered to direct the judgment in question to be carried into execution, in like manner as if no security had been given by the appellant; provided that in such cases good and sufficient security, as prescribed by the regulations, be given by the respondent, previous to his being put in possession of the property in litigation.

Any private transfer or mortgage of land, or other real property, during appeals, declared null and void, in the event of the judgment against such property being confirmed on the appeal.

Provision for the public sale of the property adjudged, in such cases, on account of the public assessment.

Rights of respondent in such cases, who may purchase the property sold by Government, and ultimately adjudged to him on the appeal.

IV. In all instances wherein the plaintiff in a *zillah* or city court may obtain a judgment in his favour for land or other real property, and the defendant appealing therefrom to a provincial court, may be left in possession of the property, under the security prescribed by the regulations, any private transfer of such property by sale, gift, or otherwise, or any mortgage thereof which might be made by such appellant during the appeal to the provincial court, or during a further appeal to the court of Sudder Dewanny Adawlut, would, in the event of the judgment against him being confirmed on the appeal, be of course, and is hereby declared to be, null and void: but as *mulguzaree* lands (lands assessed with the public revenue) are in all cases, by whomsoever possessed, held answerable for the public revenue assessed thereon, and as according to the general rules established for the collection of the public revenue, such lands, and also *lakheraj* lands, and other property appertaining to the same estate, may become liable to sale by Government, from the neglect of the party in possession to discharge the revenue due therefrom, by which sale, in cases of appeal, the party to whom the property of the lands is ultimately adjudged, might notwithstanding be deprived of it, unless he purchased the same at the public sale; to obviate all doubt respecting the right of the party making the purchase in such cases, it is hereby declared, that whenever any land or other property, for which a judgment may have been obtained in any of the established courts of justice, but which, during an appeal from such judgment by the party cast, may be left in the possession of the appellant, shall, while such appeal is pending, or before the ultimate judgment thereon be put in execution, be sold by Government to make good an arrear of the public revenue due from the appellant, and shall be purchased by the respondent; the party so purchasing, in the event of such property being finally adjudged to him on the appeal, shall be entitled to recover from the appellant, so left in possession, the full amount of his purchase money, and of all expences attending the purchase so made by him, with interest thereon at the rate of twelve per cent. per annum

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in addition to any other sum which may be adjudged due to him on account of the profits arising from the land, or other property in question, anterior to the sale. It is further declared, that in the case above supposed, if the respondent shall not have purchased the land, or other property, sold by Government to make good an arrear of public revenue due from the appellant left in possession thereof; and if the ultimate judgment on the appeal be in favour of such respondent; he shall be entitled to recover from the appellant left in possession the amount of the purchase money paid for the property so sold, and adjudged to the respondent; with interest thereon at the rate of twelve per cent. per annum, in addition to any other sum which may be adjudged to him on account of the profits, arising from the property so sold anterior to the sale of it; unless the property in question shall have been directly or indirectly purchased by the appellant himself, or in his behalf, at the public sale; in which case, on clear proof thereof being made by the respondent to whom such property may be ultimately adjudged, he shall be entitled to the possession thereof, and to all profits arising therefrom, as may be directed by the decree in the case, notwithstanding the fictitious sale supposed.

Rights of respondent in such cases, who may not purchase the property sold by Government, and ultimately adjudged to him on the appeal.

V. The principles of the rules contained in the two preceding sections, are to be considered equally applicable to cases in which the plaintiff in a *zillah* or city court may be put in possession of land, or other property adjudged to him, during an appeal, in consequence of the defendant's failing to give security for staying the execution of the decree as required by the regulation; and generally to all cases in which the possession of property may be transferred by the decree of any court of justice; from which decree an appeal may be depending in a superior court; whether a provincial court of appeal; or the court of Sudder Dewanny Adawlut; or his Majesty in Council, in the cases for which an appeal to him is provided by Regulation XVI. 1797, and the act of parliament therein recited.

Principles of the preceding section declared to extend to all similar cases, whether the original plaintiff or defendant, or the appellant or respondent, be left in possession of the property during an appeal to the provincial courts, or to the Sudder Dewanny Adawlut, or to the King in Council.

VI. As cases may occur wherein neither the appellant nor the respondent may be able to give the prescribed security for staying the execution of decrees, or for the execution thereof in favour of the plaintiff, as provided in Section 2. of Regulation XIII. 1796, and Section 3. of this regulation, it is hereby enacted, that in all such cases, the property adjudged shall be held in attachment during the appeal, or until such time as one of the parties may be able to give the required security, by the collector of the district wherein the land may be situated, at the expence of the party who may be ultimately declared entitled thereto; and under the provisions contained in Regulation XLV. 1793, relative to the attachment of lands for sale in pursuance of decrees of the courts of justice, as far as the same are applicable. No attachment, however, is to be made by any collector in the cases herein supposed, until he receive a precept, requiring him to make the same, from the *zillah* or city court wherein the original judgment in the cause may have been passed; which precept shall state specifically the property to be included in the attachment, and shall require the collector to continue the same till ordered to be withdrawn by a further precept from the court, to be issued either on the prescribed security being given by one of the parties, or on the cause being finally determined.

Provision for cases wherein neither the appellant or respondent may be able to give the prescribed security for staying the execution of decrees during appeals.

The collectors, under certain restrictions, to hold the adjudged property in attachment, in such cases.

VII. The fees on the institution of suits in the *zillah* and city courts fixed by Section 4. Regulation VI. 1797, having been established with a view to regular suits tried under the rules prescribed in Regulations III. and IV. 1793, and in Benares under Regulations VII. and VIII. 1795, and not intended to be taken on summary suits for recovering the possession or rent of land, instituted under Regulation XLIX. 1793, and Regulations XIV. and XXXV. 1795, the objects of which might be in part defeated by any considerable charge attending the summary processes authorized by these regulations, at the same time that the judgments given under them are subsidiary to further regular suits, on which the prescribed fees are payable; it is therefore hereby declared, that no institution fees is to be levied on any suits which may be instituted in *zillah* or city courts after the receipt of this regulation, either under Section 3. of Regulation XLIX. 1793, (extended to Benares by Regulation XIV. 1795,) or under Section 2. of Regulation XXXV. 1795; nor upon any appeals which may be preferred, after the receipt of this regulation, from the judgments of the *zillah* or city courts on the summary process authorized by the above regulations. It is at the same time hereby declared, that as the summary processes authorized by the above regulations are subsidiary to a regular suit in the *zillah* and city courts, no appeal is admissible against the judgments passed by the *zillah* and city courts under Sections 3, 4, and 5, Regulation XLIX. 1793, and

Explanation in what suits the institution fee prescribed by Section 4. of Regulation VI. 1797, was meant to be taken.

Not to be levied on any suits instituted, after receipt of this regulation, under Section 3. of Regulation XLIX. 1793, or under Section 2. of Regulation XXXV. 1795.

Nor upon any appeals from the judgments of *zillah* and city courts on summary process, authorized by above regulations.

Limitation of appeals in such cases.

Irrelevancy of Regulations XLIX. 1793. and XXXV. 1795, the only admissible ground of appeal in the summary and suits therein referred to.

and Sections 9 to 20, (inclusive) of Regulation XXXV. 1795, except the ground of appeal be the irrelevancy of the regulations in question to the case appealed, on which ground only the provincial courts are authorized to receive an appeal in such cases; and, after receiving it, are to dismiss the same with costs, if the stated ground of irrelevancy shall not appear to them established. If, on the other hand, the regulations above referred to appear to them inapplicable to the case, they are to reverse the irregular judgment given by the *zillah* or city court, and pass such further order thereupon as they may think just and proper; subject to a further appeal to the court of Sudder Dewanny Adawlut, or otherwise, according to the amount or value of the property in dispute, and as the same may or may not be appealable to the Sudder Dewanny Adawlut under the general rule for appeals to that court. Provided further, that nothing herein contained is to be understood to preclude a right of appeal in cases wherein land or crops may be adjudged by the *zillah* or city courts to be forfeited to Government, under Section 6, Regulation XLIX. 1793. In cases which may appear to come within that section, the *vakeel* of Government is to sue for the forfeiture on the part of Government in the *dewanny adawlut* of the *zillah* or city wherein the land may be situated; and the judgment passed thereupon may be appealed to the provincial court; and eventually to the court of Sudder Dewanny Adawlut, or otherwise, according to the general rules prescribed for appeals to that court; but particularly in Section 22, Regulation IV. 1793, relative to judgments of forfeiture in cases of resistance to the processes of the *zillah* and city courts; the provisions contained in which, as far as they regard such judgments, are hereby declared applicable to cases of forfeiture adjudged under Section 6, Regulation XLIX. 1793.

Proviso, reserving a right of appeal in cases of forfeiture to Government under Section 6. of Regulation XLIX. 1793. Process to be observed in such cases.

Institution fees, fees on exhibits, and stamp duty, in suits for *mulgoozaree* land, to be hereafter levied on the annual produce, instead of the annual *jumma* of such lands.

VIII. The annual produce of *mulgoozaree* lands, and ten times the annual produce of *lakheraj* land, to be calculated as prescribed in Section 3, Regulation IV. 1793, being made the standard for appeals, as well to the provincial courts as to the Sudder Dewanny Adawlut, and for this purpose it being required to be stated both in the petitions of plaint presented to the several courts, and in the decrees passed by them respectively; it has been judged expedient to adopt the same standard for the institution fees, fees on exhibits, and stamp duty, in suits for *mulgoozaree* lands, prescribed by Sections 4, 5, 6, 7, 10, and 17, Regulation VI. 1797; instead of calculating the same upon the annual *jumma* payable from the lands to Government, as provided by the above sections. The fees in question are accordingly hereafter to be levied on the annual produce in suits for *mulgoozaree* land instead of the annual *jumma* payable from the land to Government, at the rates and under the rules specified in the above sections respectively; but this rule is not meant to be applied to any cases wherein the prescribed fees may have been paid, or become payable, before the receipt of this regulation.

Part of Section 9. Regulation VII. 1793. rescinded, respecting rates of fees to pleaders, and computation of them on the annual jumma of mulgoozaree lands; and annual produce of lakheraj lands.

IX. Such part of Section 9, Regulation VII. 1793, as prescribes the rates of fees to be allowed the pleaders of plaintiffs and defendants in the zillah or city courts, and of appellants and respondents in the provincial courts of appeal, and court of Sudder Dewanny Adawlut, as well as such part of the above regulation as directs that the pleaders receive the fees in question on the amount of the annual jumma payable to Government, if the suit be for land subject to the payment of public revenue; or if it be for land held exempt from the payment of public revenue, on the amount of the annual produce; is hereby rescinded: and in all suits determined in the zillah or city courts, or in the provincial courts of appeal, or in the court of Sudder Dewanny Adawlut, after the receipt of this regulation, the fees of the pleaders therein are to be regulated according to the following section.*

Fees of pleaders in all regular suits, as well as in all appeals in such suits, to be hereafter allowed according to this section.

X. In all regular suits which may be hereafter tried in the zillah and city courts under the rules prescribed in Regulations III. and IV. 1793, or in the province of Benares, under the rules prescribed in Regulations VII. and VIII. 1795; as well as in all appeals from the judgments of the zillah or city courts in such suits, whether to the provincial courts of appeal, or to the court of Sudder Dewanny Adawlut; and generally in all regular suits, whether tried in the first instance or in appeal, for the fees in which no other express provision may have been made, the pleaders of the plaintiffs and defendants, or appellants and respondents, respectively, are to be allowed for pleading the causes of their

* Sections 9. to 15. are rescinded by Section 2. Regulation XXVII. 1814.

clients the rates of fees which were fixed for them by Section 9, Regulation VII. 1793, to be calculated as follows.

First. *In suits for money, or personal property, or real property not being* malguzaree *or* lakheraj *land, specified in the two following clauses.*

On amount or value not exceeding one thousand sicca rupees, five per cent.

On amount or value exceeding one thousand, and not exceeding five thousand sicca rupees, five per cent. on the first thousand, and four per cent. on the remainder.

On amount or value exceeding five thousand, and not exceeding ten thousand sicca rupees, on five thousand as above, and on the remainder three per cent.

On amount or value exceeding ten thousand, and not exceeding twenty-five thousand sicca rupees, on ten thousand as above, and on the remainder two per cent.

On amount or value exceeding twenty-five thousand, and not exceeding fifty thousand sicca rupees, on twenty-five thousand as above, and on the remainder one per cent.

On amount or value exceeding fifty thousand, and not exceeding one hundred thousand sicca rupees, on fifty thousand as above, and on the remainder twelve annas per cent.

On amount or value exceeding one hundred thousand sicca rupees, on one hundred thousand as above, and on the remainder eight annas per cent.

In all the above calculations, where the amount or value may be in fractions of rupees, such fractions to be rejected in calculating the fees thereupon.

Rates to be calculated in suits for personal property or real property not being malguzaree or lakheraj land.

Second. *In suits for* malguzaree *land (land paying revenue to Government) the fees to be calculated at the rates above specified on the annual produce of the land, to be estimated according to the rule prescribed in Section 3, Regulation IV. 1793.*

Mode of calculation in suits for malguzaree land.

Third. *In suits for* lakheraj *land (land exempted from paying revenue to Government) the fees to be calculated at the rates above specified, on ten times the annual produce of the land, to be estimated as directed in Section 3, Regulation IV. 1793.*

Rule in suits for lakheraj lands.

XI. Nothing in the preceding sections is to be understood to affect Section VI, Regulation VII. 1793, respecting suits which may be withdrawn by the parties; or any other part of the above regulation, except such as is herein expressly noticed.

Preceding sections not to affect Section VI. of Regulation VII. 1793, or any part of that regulation, except what is noticed.

XII. The fees receivable by pleaders in the zillah and city courts in suits for the recovery of arrears of rent or revenue, instituted under Regulation XXXV. 1795, having been fixed by Regulation VIII. 1796, at one fourth of the fees established for the pleaders in regular suits by Section 9, Regulation VII. 1793, that proportion is to be allowed in such cases upon the rates established by Section 10 of this regulation.

Fees in suits for rent or revenue, under Regulation XXXV. 1795, and Regulation VIII. 1796, to be calculated at one fourth of the fees established by Section 10 of this regulation.

XIII. The principle on which the fees of the pleaders in suits for the recovery of rent or revenue, preferred under Regulation XXXV. 1795, were fixed at one fourth of the established fees for pleaders in regular suits, being equally applicable to the summary processes for recovering the possession of land, authorized by Regulation XLIX. 1793, (extended to the province of Benares by Regulation XIV. 1795,) in which pleaders may be employed, the provisions contained in Regulation VIII. 1796, with the explanation thereof in the preceding section, are hereby declared to be equally applicable to all suits which may be hereafter instituted under Regulation XLIX. 1793, or which may have been already instituted in conformity thereto, and shall not have been determined before the receipt of this regulation.

The same proportion of fees (one fourth of those in regular suits) to be allowed in summary suits for the possession of land, under Regulation XLIX. 1793.

XIV. By Section 14, Regulation VII. 1793, the pleaders in the several courts are permitted to demand and receive a fee of four annas for every petition which they may present, or motion they may make in writing in the court, provided that the motion or petition shall not relate to any suit depending before the court, wherein the person in whose behalf they may present such petition, or make such motion, may be a party. But as particular cases may occur, wherein the above fee of four annas may not be a sufficient compensation to the pleader or pleaders employed therein, the several courts, whenever in their judgment such cases may occur, are authorized to award such additional fee as they may consider a just compensation to the pleader or pleaders so employed, on a review of his or their labour, considered with all the circumstances of the case; and to cause payment thereof to be made, either by the party in whose behalf such pleader or pleaders may have

Courts authorized to allow the pleaders such fee as they may judge adequate in particular cases, where the fee of four annas authorized by Section 14, of Regulation VII. 1793, may appear inadequate.

And to cause payment thereof by either party as

the case, as may be just and proper; Provided that in such cases the compensation given shall never exceed one fourth of the established fee on regular suits.

Explanatory rule for the conduct of pleaders, that they are restricted from agreeing with their constituents to plead their causes for less than their established fees.

have been employed, or by the opposite party in the cause; as may be deemed just and proper. *Provided, however, that the compensation given in such cases, shall in no instance exceed one fourth of the established fee which the pleader or pleaders would have been entitled to on a regular suit in the case in question.*

XV. Doubts having arisen whether pleaders employed under Regulation VII. 1793, are restricted from agreeing with their constituents to plead their causes for less than their established fees; and as a principal object in fixing the rates of fees for pleaders (namely, to induce men of character and education to become pleaders in the courts of justice,) would be defeated by allowing such private agreement, the consequence of which would be, that instead of a preference being given to superior qualifications and diligence, the most needy would probably engross the greater part of the business, whether qualified or otherwise; it is therefore hereby declared, that all agreements of the description above noticed for paying or receiving less than the established fees, are to be considered null and void; and besides a forfeiture to Government of the full fees payable by the plaintiff or defendant, appellant or respondent, who may be proved a party in such illicit agreement, any pleader who may be convicted of having been a party therein, shall be liable to immediate dismission from his office. This declaration, however, is not meant to have a retrospective operation in cases wherein, from the voluntary acknowledgment of the parties, or otherwise, it may satisfactorily appear that they were not aware of the intention of Regulation VII. 1793; though no plea of this nature will be admissible in future; and any pleader in any pending suit, who may have entered into any agreement of the nature herein stated, under a misconstruction of the foregoing regulation, is required to declare the same immediately on the receipt of this explanatory rule under the penalty above specified.

All such agreements declared null and void.

Under penalty of forfeiture of the fees payable, and dismission of the pleader proved a party thereto.

But this declaration not meant to be retrospective, in cases wherein the intention of the regulation may have been misunderstood.

Such cases, however, to be reported on receipt of this explanatory rule under the penalty above specified.

XVI. Sections 10. and 14. Regulation XVIII. 1793, are hereby rescinded. The judges of the *sudder*, city, and provincial courts, are at the same time enjoined to be careful that the registers and books of proceedings, prescribed in the 4th, 9th, and 13th Sections of the above regulation are duly kept, as therein directed; and that due attention be paid to the rules contained in the regulation in question for preserving the original records of their respective courts.

Sections 10. and 14. of Regulation XVIII. 1793, rescinded. Judges of the *sudder*, city, and provincial courts to be careful, in observing Sections 4, 9, and 13, of Regulation XVIII. 1793, and the rules in that regulation for preserving their original records.

A. D. 1801. REGULATION II.

A REGULATION *for the more speedy and effectual Administration of Justice in the Courts of Sudder Dewanny and Nizamut Adawlut.*—PASSED *by the Governor General in Council, on the* 12*th March* 1801; *corresponding with the* 1*st Chyte* 1207 *Bengal era; the* 12*th Chyte* 1208 *Fuslee; the* 1*st Chyte* 1208 *Willaity; the* 12*th Chyte* 1858 *Sumbut; and the* 26*th Shawaul* 1215 *Higeree.*

Preamble.

WHEREAS by Section 2, Regulation VI. 1793, the court of Sudder Dewanny Adawlut consists of the Governor General and the Members of the Supreme Council, and by Section 67, Regulation IX. 1793, the court of Nizamut Adawlut consists of the Governor General and the Members of the Supreme Council, assisted by the head *cauzy* of Bengal, Behar, and Orissa, (whose jurisdiction is extended by Regulation XLIX. 1795, to the province of Benares,) and two *muftees*; and whereas by reason of the various public duties of the Governor-General and of the Members of the Supreme Council, unavoidable delays have arisen in the proceedings of the said courts, and it was therefore deemed necessary, with a view to prevent the accumulation of appeals in the Sudder Dewanny Adawlut, to limit the appeals to that court as provided by Regulations XII. 1797, and V. 1798, notwithstanding which limitations, the number of undecided causes in appeal has unavoidably increased: and whereas it is essentially necessary to the impartial, prompt, and efficient administration of justice, and to the permanent security of the persons and properties of the native inhabitants of these provinces, that the Governor General in Council exercising the supreme legislative and executive authority of the state should administer the judicial functions of the Government by the means of courts of justice, distinct from the legislative and executive authority of the state; and whereas it is important to the honor and stability of the British Government, and to the happiness and prosperity of the native subjects of these provinces, that further provision should be made for the more effectual despatch of the proceedings of the said courts of Sudder Dewanny Adawlut, and Nizamut Adawlut, and that the exercise of the judicial functions of this Government should be more distinctly separated from the legislative and executive authority thereof: His Excellency the Most Noble the Governor General in Council hath enacted the following regulation, to be in immediate force throughout the provinces of Bengal, Behar, Orissa, and Benares.

I. Section 2, Regulation VI. 1793, and Section 67, Regulation IX. 1793, are hereby repealed.

Section 2, Regulation VI. and Section 67, Regulation IX. 1793, repealed.

II. The court of Sudder Dewanny Adawlut shall henceforth consist of three judges, to be denominated respectively, chief judge, and second, and third judge, of the Sudder Dewanny Adawlut. The said chief judge shall not be the Governor General, nor the Commander in Chief; but shall be one of the members of the Supreme Council to be selected and appointed by the Governor General in Council: and the said second and third judges shall be selected and appointed by the Governor General in Council, from among the covenanted civil servants of the Company, not being members of the Supreme Council.

Sudder Dewanny Adawlut to consist of three members of the Supreme Council as chief judge, and two puisne judges to be selected from among the covenanted civil servants of the Company not members of Council.

IV. The chief judge and each of the puisne judges, who may be appointed to the court of Sudder Dewanny Adawlut, previous to entering upon the execution of the duties of his office,

The judges to take an oath similar to that pre-

scribed for judges of the provincial courts of appeal.

office, shall take and subscribe before the Governor General in Council, the same oath as is required to be taken and subscribed by the judges of the provincial courts of appeal, according to the form prescribed in Section 2, Regulation V. 1793.

The court shall possess all the powers and perform all the duties described in former regulations, under the modifications prescribed therein, and the following further provisions.

V. The court of Sudder Dewanny Adawlut constituted by Section 3, of this regulation, shall possess all the powers vested under the existing regulations in the court of Sudder Dewanny Adawlut, which was constituted by Section 2, Regulation VI. 1793; and shall perform all the duties required to be performed by that court under Regulation VI. 1793, and under all other regulations which have been passed and published in the mode prescribed by Regulation XLI. 1793; subject to all the modifications and provisions contained in such regulations; and to the following further provisions.

To be an open court, and to be held by not less than two judges; and no decree or final order to be valid, unless passed by two judges at least.

Rules in cases of difference of opinion between the judges present.

VI. The court of Sudder Dewanny Adawlut is to be an open court, and to be holden as directed in Section 3, Regulation VI. 1793, as soon as a convenient place shall have been provided for the purpose. Two judges shall be necessary to hold a court; and no decree or final order of the court shall be valid, unless passed by two judges present. In the event of any difference of opinion arising when the three judges shall be present in court, the voices of the majority shall determine the question; but if a difference of opinion should arise when two judges only shall be present in court, the question then before the court shall be postponed for adjudication, until the third judge shall attend. The judge, who may be absent when any such case shall occur, shall be duly advised of the same, by the register to the court; and the chief judge shall instruct the register to summon a special sitting of the court, for the adjudication of the question; or the chief judge shall order the said question to be brought forward for adjudication, at the next ensuing ordinary sitting of the court, when all the said judges shall be present. The ordinary sittings of the court shall be holden on three fixed days in each week; and special sittings, when necessary, shall be summoned by the register, on his receiving orders for that purpose from the chief judge; or (during the absence or indisposition of the chief judge) from the senior judge at the presidency: who is hereby declared to be vested with the same powers as are vested in the chief judge, whenever the chief judge may quit the presidency, or, from indisposition or other cause, may be unable to attend the court, and also whenever the chief judge shall desire the senior judge present to officiate for him. It shall further be competent to the chief judge, or to any judge of the court, to whom this duty may be delegated by the court at large, to receive petitions of appeal, or any other petitions receivable by the Sudder Dewanny Adawlut, and to proceed thereupon as the regulations authorize and direct; so that all such petitions be received in open court; and that no decision or final order be passed thereupon, otherwise than in the presence of two judges, nor any order which may be repugnant to a previous decree or order of the court. Any one or more of the judges of the Sudder Dewanny Adawlut, may also take the depositions of witnesses in open court, instead of causing the same to be taken by the register, as authorized by Regulation VI. 1793, in cases where this mode of examination may be judged advisable; and, generally, the judges of the Sudder Dewanny Adawlut are authorized to regulate the mode and order of their own proceedings, as well as the execution of their process, subject to the rules prescribed by the regulations. Every decree shall be signed by the judges present at the passing of such decree; and all process issued from the court shall be signed by the register, under such instructions as may be prescribed by the court for his guidance, in conformity to Section 5, Regulation XIII. 1793; which empowers the judges of the several courts of justice, civil and criminal, to assign to all ministerial officers, attached to those courts, the duties to be performed by them respectively.

Ordinary sittings to be thrice in a week, and special sittings, when necessary, how to be summoned.

Powers vested in the senior judge present, in the absence of the chief judge.

The chief judge or any other judge duly empowered, may receive petitions, and proceed thereon, but not to pass any final decree or order.

Any judge may take depositions, instead of causing them to be taken by the register.

Court to regulate the mode and order of their own proceedings, under the rules prescribed in the regulations.

Decrees to be signed by the judges present, and all process by the register.

VII. By Section 15, Regulation VI. 1793, the court of Sudder Dewanny Adawlut is empowered to suspend from office, any judge or judges of the provincial, *zillah*, or city courts, for wilful disobedience or neglect of any process, rule, or order of the court of Sudder Dewanny Adawlut, or for a false return thereto: such suspension to be notified within ten days, with all relative proceedings and papers, for the determination of the Governor General in Council. By Section 15, Regulation V. 1793, the court of Sudder Dewanny Adawlut is vested with a similar power in cases of disobedience, neglect, or false return to any process, rule, or order of a provincial court of appeal, by any judge of a *zillah* or city court; and by Section 10, Regulation V. 1793, in all cases not expressly provided for, in which it shall appear to the provincial courts of appeal, that the judges of the *zillah* or city

Recapitulation of former regulations for suspending judges of provincial, *zillah*, and city courts in cases of misconduct.

courts, have been guilty of negligence or misconduct in the discharge of their duty, a report of the circumstances is directed to be made to the Sudder Dewanny Adawlut. But it is not defined by the regulations in what manner the court of Sudder Dewanny Adawlut is to proceed on the receipt of such reports, or on the receipt of similar reports directed to be made to that court by Section 10, Regulation XIII. 1793, in cases of neglect or misconduct, (other than corruption or extortion, for which a special rule is established,) by the registers to the provincial, *zillah*, or city courts; or their assistants; or by any other ministerial officers who may be covenanted servants of the Company. It is therefore enacted, that whenever a report of negligence or misconduct in the discharge of official duty may be made to the court of Sudder Dewanny Adawlut, either in pursuance of the latter part of Section 10, Regulation V. 1793, or of Section 10, Regulation XIII. 1793, or in any case not expressly provided for by the regulations, the court of Sudder Dewanny Adawlut, after such inquiry as may be judged necessary, in proof or explanation of the circumstances stated, shall, if the case appear to require the notice of the Governor General in Council, report the same to him, with a copy of all proceedings and papers received on the subject of it, for such orders as may be judged proper. The court of Sudder Dewanny Adawlut is directed to report to the Governor General in Council, all instances of wilful neglect of duty or aggravated misconduct by a covenanted servant of the Company, employed in any of the civil courts, whether in a judicial or ministerial capacity; and whether such neglect or misconduct may have been reported to the court of Sudder Dewanny Adawlut, by a provincial, *zillah*, or city court; or may otherwise appear from the proceedings and papers before the court. But if the case should appear to the court to involve an error of judgment only, or a slight default, for which an admonition from the court may be deemed a sufficient correction, the court of Sudder Dewanny Adawlut, in the former case, is authorized to notice the error for the information and guidance of the party who may have committed it; or, in the latter case, to advise him of his default, and to admonish him accordingly.

Not defined by former regulations how the court of Sudder Dewanny Adawlut is to proceed on reports of neglect or misconduct in certain cases.

Rules for the future guidance of the Sudder Dewanny Adawlut, in such cases.

In what cases court to report to the Governor General in Council.

Errors of judgment or slight defaults how to be corrected.

VIII. The limitation of appeals to the court of Sudder Dewanny Adawlut from the decisions of the provincial courts of appeal, shall, for the present, remain as prescribed by Regulations XII. 1797, and V. 1798, with this qualification, that in all cases wherein an appeal may lie under the existing regulations to a provincial court of appeal, from the decision of a* zillah *or city court; and in which the provincial court may have refused to admit the appeal, on the ground of delay, informality, or other default in preferring it; or after having admitted the appeal, may dismiss it on the ground of some default, without investigation of the merits of the cause; it shall be competent to the Sudder Dewanny Adawlut to receive an appeal from the order or dismissal of the provincial court, whatever may be the amount or value at issue in the cause; provided such appeal be preferred in conformity to the rules prescribed with regard to other appeals to the court of Sudder Dewanny Adawlut; and if it shall appear to that court, on examination of the proceedings of the provincial court, that the appeal was rejected or dismissed by the latter, on insufficient grounds, it may order the provincial court to receive the appeal; or to revive it, if received and dismissed; and to try and determine the cause upon its merits according to the regulations. Provided further, however, that if such appeals shall on inquiry be found groundless and litigious, the court of Sudder Dewanny Adawlut shall in all such instances, punish the litigious appellant, as authorized by Section 3, Regulation XIII. 1796, in other cases of litigious appeal, viz. by a fine to Government proportionate to the condition of the party, and to the circumstances of the case: and that nothing in this regulation shall be understood to authorize an appeal to the Sudder Dewanny Adawlut, in cases wherein a decree or order may have been passed by the provincial courts of appeal before the date of the present regulation; which decree or order may have been final without liberty of appeal under the regulations then in force.*

Modification of existing rules for limiting appeals to the Sudder Dewanny Adawlut, in cases of default; and rules of proceeding in such cases.

Provision respecting litigious appeals.

No appeal authorized from orders or decrees passed previous to the date of this regulation, which were final under the regulations then in force.

IX. The qualification contained in the preceding section, of the limitation of appeals to the Sudder Dewanny Adawlut, is extended under the same provisions to the limitation of appeals, by the regulations now in force to the provincial courts of appeal, the judges of which are accordingly declared competent to receive an appeal from the decree or order

The foregoing qualification of the limitation of appeals in cases of default extended to all the inferior courts.

* This and the following section are rescinded by clause first, Section 3, Regulation XXVI. 1814.

of a zillah or city judge, and to proceed thereupon in conformity to the above section, whatever may be the amount in value at issue in the cause, in all cases wherein an appeal may lie under the existing regulations to the zillah and city judges from the decisions of their registers; or of the native commissioners under Regulation XL. 1793, or any other regulation; and in which the zillah or city judge may have refused to admit the appeal on any ground of delay, informality, or other default in preferring it; or after having admitted the appeal, may dismiss it on the ground of some default, without investigation of the merits of the cause. The same principle is to be applied by the zillah and city judges, to any appeals from decisions of the native commissioners, which may be referred by them to their registers, in pursuance of the authority vested in them by Regulation III. 1800, and which may be dismissed by their registers, on any ground of default, without investigation of the merits of the case.

Nizamut Adawlut to consist of a number of the Supreme Council, and two puisne judges to be selected from among the covenanted civil servants, not members of council, assisted by the head cozzy and two muftis.

X. The court of Nizamut Adawlut shall henceforth consist of three judges, to be denominated respectively, chief judge, and second, and third judge, of the Nizamut Adawlut, assisted by the head *cozzy* of Bengal, Behar, Orissa and Benares, and by two *muftis*. The said chief judge shall not be the Governor General, nor the Commander in Chief, but shall be one of the members of the Supreme Council, to be selected and appointed by the Governor General in Council, and the said second and third judges shall be selected and appointed by the Governor General in Council, from among the covenanted civil servants of the Company, not being members of the Supreme Council.

The judges to take the oath prescribed for the judges of the courts of circuit.

XI. The chief judge, and each of the puisne judges, who may be appointed to the court of Nizamut Adawlut, previous to entering upon the execution of the duties of his office, shall take and subscribe before the Governor General in Council, the same oath as is required to be taken and subscribed by the judges of the courts of circuit, according to the form prescribed in Section 34, Regulation IX. 1793.

The court shall possess all the powers and perform all the duties described in former regulations, under the modifications prescribed herein, and the following further provisions.

XII. The court of Nizamut Adawlut constituted by Section 10, of this regulation, shall possess all the powers vested under the existing regulations in the court of Nizamut Adawlut which was constituted by Section 67, Regulation IX. 1793; and shall perform all the duties required to be performed by that court, under Regulation IX. 1793, and under all other regulations which have been passed, and published, in the mode prescribed by Regulation XLI. 1793, subject to all the modifications and provisions contained in such regulations; and to the following further provisions.

To be an open court, and subject to the same regulations as prescribed in Section 66, for the Sudder Dewanny Adawlut.

XIII. The court of Nizamut Adawlut is to be an open court, and to be holden as directed in Section 66, Regulation IX. 1793; as soon as a convenient place shall have been provided for the purpose, under the same provisions, with respect to the number of judges necessary for holding a court; to an eventual difference of opinion between the judges; to the ordinary and special sittings of the court; to its mode and order of proceeding; and to the execution of its process, as have been prescribed in Section 6, of this regulation, for the court of Sudder Dewanny Adawlut.

The powers vested by Section 7, for suspending judges, &c. in the Sudder Dewanny Adawlut, extended to the court of Nizamut Adawlut.

XIV. The powers vested in the court of Sudder Dewanny Adawlut, to suspend from office any judge or judges of the provincial, *zillah*, or city courts, for disobedience or neglect of any process, rule, or order of the court of Sudder Dewanny Adawlut, or for a false return thereto, and to suspend any judge of a *zillah* or city court, in cases of disobedience, neglect, or false return to any process, rule, or order of a provincial court of appeal, are hereby declared to be equally vested in the court of Nizamut Adawlut, in similar cases of disobedience, neglect, or false return to any process, rule, or order, of that court, by the judges of the courts of circuit, or the *zillah* or city magistrates, as well as in cases of disobedience, neglect, or false return, by a *zillah* or city magistrate, to any process, rule, or order of a court of circuit; and in such cases, the courts of circuit are directed to make the same reports to the court of Nizamut Adawlut, as the provincial courts of appeal are required to make to the Sudder Dewanny Adawlut, by Section 15, Regulation V. 1793. The court of Nizamut Adawlut is further authorized and directed to proceed upon reports from the courts of circuit, of neglect or misconduct, by the *zillah* or city magistrates, made in pursuance of Section 63, Regulation IX. 1793; as well as upon reports from the court of circuit, and *zillah*,

Reports to be made by the courts of circuit to the Nizamut Adawlut in cases of neglect or misconduct.

Nizamut Adawlut how to proceed on such reports.

lah, or city magistrates, of neglect or misconduct by their registers, assistants, or other ministerial officers, made in pursuance of Section 10, Regulation XIII. 1793, in the same manner as the court of Sudder Dewanny Adawlut is authorized and directed by Section 7, of this regulation, to proceed upon similar reports to that court, of neglect, or misconduct on the part of the judges of the *zillah* and city courts; or of the registers, assistants, and other ministerial officers of those courts; or, of the provincial courts of appeal: and in all cases wherein a covenanted servant of the Company employed in any of the criminal courts, or in any office of police, may appear to the Nizamut Adawlut to have been guilty of neglect of duty, or of other misconduct, not expressly provided for by the regulations, that court is either to report the same to the Governor General in Council, or to advise and admonish the party, as the case may require, under the provisions contained in Section 7, of this regulation, the whole of which is declared applicable to such cases.

All applications from judges and magistrates for leave of absence, to be made to the Governor General in Council.

XV. The judges of the provincial courts of appeal and courts of circuit, who by Section 6, Regulation XLVII. 1793, and Section 7, Regulation VII. 1794, are restricted from leaving their stations without the sanction of the Sudder Dewanny Adawlut and Nizamut Adawlut, shall hereafter apply for leave of absence to the Governor General in Council, in like manner as the *zillah* and city judges and magistrates are required to make such applications by Section 2, Regulation IV. 1796. Provided, however, to any provincial, *zillah*, or city judge, or any judge of circuit, or *zillah* or city magistrate, being permitted by Government to quit his station, a reference shall be made to the Sudder Dewanny Adawlut and Nizamut Adawlut, to ascertain the state of the public business depending before such judge or magistrate; and whether the leave of absence desired can be conveniently granted or otherwise.

and reference to be made, in such cases, to the courts of Sudder Dewanny Adawlut and Nizamut Adawlut.

XVI. The proceedings of the courts of Sudder Dewanny Adawlut and Nizamut Adawlut, which have been heretofore kept in the English language, and copied for transmission to the Governor General in Council, and to the Honorable Court of Directors, are not required to be hereafter kept in English farther than the courts may find convenient and conducive to regularity; nor will copies of the proceedings of either court be hereafter required, except in cases of appeal to His Majesty in Council, or of reference to the Governor General in Council, as prescribed by the regulations; in which cases attested copies and translations are to be furnished as heretofore.

Proceedings of the Sudder Dewanny Adawlut and Nizamut Adawlut not to be kept in the English language further than the courts may find convenient and conducive to regularity. Copies of proceedings not required hereafter, except in case of appeal to His Majesty in Council, or of reference to the Governor General in Council.

XVII. The office of translator to the courts of Sudder Dewanny Adawlut, and Nizamut Adawlut, is abolished; and any translations which may be hereafter required by either court, are to be made by the register, and his assistants; or, if at any time their other official avocations should not admit of their making the requisite translation, the court is empowered to cause the same to be made by any other competent person, as authorized, with respect to trials referred to the Nizamut Adawlut, by Section 3, Regulation X, 1799.

The office of translator to the Sudder Dewanny Adawlut and Nizamut Adawlut, abolished; and such translations as may be required in future how to be made.

XVIII. Section 30, Regulation VI. 1793, which requires the provincial courts to furnish the Sudder Dewanny Adawlut with translations of all papers in the country languages transmitted to that court, whether relating to causes appealed, or to other matters, is hereby repealed; and the provincial courts, as well as the *zillah* and city courts, are directed to furnish hereafter translations of original papers transmitted to the Sudder Dewanny Adawlut, in such cases only wherein translations may be required by the precepts of that court, or by any regulation or order expressly requiring the same.

Provincial, *zillah*, and city courts, not to furnish translations of original papers sent to Sudder Dewanny Adawlut unless expressly required.

XIX. Section 3, Regulation XIX. 1797, is also hereby repealed, and the provincial courts of appeal shall not hereafter require the *zillah* or city courts to furnish them with translations of proceedings and papers in causes appealed to the court of Sudder Dewanny Adawlut, excepting in cases wherein translations may be required by that court of the proceedings held, or papers filed, in the *zillah* or city courts: Provided, however, that in all such cases, viz. whenever the court of Sudder Dewanny Adawlut, upon appeals to His Majesty in Council, or otherwise, may have occasion to require translations of any proceedings held, or original papers filed, in a *zillah* or city court, such translations are to be prepared by the registers and assistants to the *zillah* and city courts, as provided by Section 4, Regulation XIX. 1797; which (with Section 5, of the same regulation, where it may be necessary to employ occasional translators not in the civil service,) is still to be considered in force, with respect to any future translations which may be required from the provincial courts of appeal.

Provincial courts shall not require translations from the *zillah* or city courts, unless required by the Sudder Dewanny Adawlut.

Such translations are to be made when required by the Sudder Dewanny Adawlut, from the provincial, *zillah*, or city courts.

A. D. 1803. REGULATION V.

A REGULATION *for empowering the Sudder Dewanny Adawlut to try Appeals from the Decisions of the Provincial Court of Appeal, established in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company; and for extending the Jurisdiction of the Sudder Dewanny Adawlut over the said Provinces, and all the civil Courts established therein.*—PASSED *by the Governor General in Council, on the* 24*th of March,* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

WHEREAS it has been deemed expedient, with a view to the due administration of justice, in civil cases, in the provinces ceded by the Nawaub Vizier to the East India Company, that the Sudder Dewanny Adawlut should be empowered to receive and try appeals from the decisions of the provincial court of appeal, established in the said provinces; that the judges of the *zillah* courts, and of the provincial court of appeal, should be amenable to the said Sudder Dewanny Adawlut, for the due discharge of their duties; that the said superior tribunal should be vested with the power of receiving charges relating to any conduct of the judges of the *zillah* and provincial courts, repugnant to their oath of office; and of causing the same to be regularly investigated and determined; and that the Sudder Dewanny Adawlut should be empowered to hold original jurisdiction, in certain cases; the following rules have been enacted.

Court of Sudder Dewanny Adawlut vested with jurisdiction over the ceded provinces, and over the courts established therein.

II. The court of Sudder Dewanny Adawlut is hereby vested with jurisdiction over the provinces ceded by the Nawaub Vizier to the East India Company, and over all the courts of judicature established therein, in the manner hereafter directed.

No decree, or order, &c. to be made, but on court days, and in open court.

III. Every rule, order, proceeding, or decree, of the Sudder Dewanny Adawlut, shall be made on court days, and in open court.

Cases in which the Sudder Dewanny Adawlut is empowered to refer original suits or complaints to the *zillah* courts.

IV. *First.* The Sudder Dewanny Adawlut is empowered to receive any original suit or complaint, which may be cognizable in any *zillah* court, and to command the judge of such court, by a precept, under the seal of the court, and attested by the register, to receive the suit or complaint; and to proceed to hear and determine it, provided proof shall be previously made to the satisfaction of the Sudder Dewanny Adawlut, that the judge refused or omitted to proceed in the complaint; and that the complainant applied to the provincial court of appeal, and that such court omitted or refused to command the judge to receive or proceed in the complaint, under Section 7, Regulation IV. 1803. If the plaintiff shall refuse or neglect to proceed in the suit or complaint, for the period of six weeks, after the order of the Sudder Dewanny Adawlut shall have been received by the *zillah* court, and notified to the complainant, the judge is authorized to dismiss the suit or complaint, notwithstanding the order of the Sudder Dewanny Adawlut. In such cases, the judge, within one week after the dismission of the suit or complaint, shall certify to the Sudder Dewanny Adawlut, under his hand and the seal of the court, the dismission of the suit or complaint, and the grounds of the dismission.

Suit or complaint to be dismissed, if the party preferring it shall refuse or omit to proceed in it for six weeks.

Judge to notify the dismission of the suit to the Sudder Dewanny Adawlut.

Cases in which the Sudder Dewanny Adawlut may receive petitions respecting suits or matters depending, or which may have been decided in any *zillah* court.

Second. The Sudder Dewanny Adawlut is vested with authority to receive any petitions respecting suits or matters which may be depending, or have been decided, in any *zillah* court: and provided it shall be proved to the satisfaction of the Sudder Dewanny Adawlut, that the petition was presented to the judge of the *zillah* court, and that he refused or omitted to receive the petition and proceed on it; and that the complainant applied to the provincial court of appeal, and that such court omitted or refused to grant the precept specified in Section 8, Regulation IV. 1803; the Sudder Dewanny Adawlut is empowered to issue a precept under the seal of the court, and attested by the register, commanding the judge of the *zillah* court to receive the petition, and to proceed respecting it, according to the regulations.

Court how to proceed with such petitions.

Cases in which the Sudder Dewanny Adawlut is empowered to refer appeals to the provincial court to be tried and determined.

V. *First.* The Sudder Dewanny Adawlut is empowered to receive any appeal from a decision of a *zillah* court, which may be cognizable in the provincial court of appeal; and to command such provincial court, by a precept under the seal of the court, and attested by the register, to receive the appeal, and to proceed to hear and determine it, provided proof shall be previously made to the satisfaction of the Sudder Dewanny Adawlut, that the provincial court omitted or refused to receive or proceed in it. If the appellant shall refuse or omit to proceed in the appeal for the period of six weeks, after the order of the Sudder Dewanny Adawlut shall have been received by the provincial court, and notified to him, the provincial court is empowered to dismiss the appeal, notwithstanding the order of the Sudder Dewanny Adawlut. In such cases, the provincial court, within one week after the dismission of the appeal, shall certify to the Sudder Dewanny Adawlut, under the hands of the judges, and the seal of the court, the dismission of the appeal, and the grounds of the dismission.

Appeal to be dismissed, if the appellant shall omit or refuse to proceed in it for six weeks.

Provincial court to notify the dismission of the appeal to the Sudder Dewanny Adawlut.

Cases in which the Sudder Dewanny Adawlut may receive petitions respecting appeals or matters depending, or which may have been decided in the provincial court.

Second. The Sudder Dewanny Adawlut is vested with authority to receive the petitions respecting appeals or matters which may be depending, or have been decided, in the provincial court of appeal; and provided it shall be proved to the satisfaction of the court that the petition was presented to the provincial court, and that the court refused or omitted to receive the petition; the Sudder Dewanny Adawlut is empowered to issue a precept under the seal of the court, and attested by the register, commanding the provincial court to receive the petition, and to proceed respecting it according to the regu-

Sudder Dewanny Adawlut how to proceed in such cases.

lations.

Sudder Dewanny Adawlut not to correspond with parties in suits, or any person, respecting matters before the court, or cognizable by it.

VI. The Sudder Dewanny Adawlut is prohibited from correspo[nding by letter with parties in suits, on process or matters depending before it, or coming within its cognizance. If a party in a suit, or any person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he shall either appear in the court in person and represent the matter in writing, or shall make the representation in writing through an authorised *vakeel*; the court shall pass such order upon the representation as shall appear to it proper, consistently with the regulations; and shall cause a copy of the order, under the seal of the court, and attested by the register, to be delivered to the person making the representation, or to his *vakeel*.

In trying matters in the first instance, and in appeals, the Sudder Dewanny Adawlut to be guided by the rules prescribed to the *zillah* courts.

Exceptions to the rule.

VII. In matters in which the Sudder Dewanny Adawlut may be empowered by any regulation, to try in the first instance; and also in appeals which may be preferred to the court from decisions of the provincial court of appeal, (excepting as to hearing witnesses and receiving evidence;) the court shall proceed in the same manner, and with the like powers and authority, and subject to the same restrictions, limitations, and exceptions, as are prescribed to the *zillah* courts.

Sudder Dewanny Adawlut how to proceed, in the event of the judge of a zillah court, or the provincial court of appeal, being charged with corruption.

VIII. If any person shall charge the judge of the* zillah *court, or of the provincial court of appeal, before the Sudder Dewanny Adawlut, with having been guilty of corruption in opposition to his oath; the court shall receive the charge, provided the complainant shall previously make oath to the truth of it, (or subscribe the required declaration, if he shall be of the description of persons whom the court are empowered to exempt from taking oaths,) and give security in whatever sum the court shall judge proper, to appear and prosecute the charge when required. Unless the complainant shall take the oath, or subscribe the above-mentioned declaration, and give the required security, the court shall not receive the charge. If the court shall receive any such charge, or in the event of a*

* This section is rescinded by Section 2, Regulation X. 1806.

charge of corruption against the judge of any zillah *court, being transmitted to it by any provincial court of appeal, under Section* 10, *Regulation IV.* 1803, *the court (according as it may deem proper on a consideration of the circumstances of the case) may direct the parties to proceed to Calcutta, that the charge may be tried before the Sudder Dewanny Adawlut; or, if the party accused shall be a judge of a* zillah *court, the court may order the charge to be tried by the provincial court of appeal; or, if the party accused be a judge of the provincial court, the court may grant a special commission to three or more of the judges of the provincial courts, established in the provinces of Bengal, Behar, and Orissa, to assemble and try the charge; or, in any of the cases mentioned in this section, they may recommend to the Governor General in Council, to order the party accused to be prosecuted in the Supreme Court of Judicature at Calcutta, by the law officers of Government, under the provisions made by act of parliament for such cases. If the charge shall be established, the Governor General in Council will either remove such judge from his office, or suspend him from the Honorable Company's service, or pass such other order as may appear proper. If the charge shall not be proved, the judge so accused shall be at liberty to sue the accuser for damages, in any court of judicature to which he may be amenable. The rules contained in this section shall not be construed to prevent any individual who may have a charge of corruption to prefer against a judge of any* zillah *court, or of the provincial court of appeal, from prosecuting such charge in the Supreme Court of Judicature, in the first instance, under the provisions made by act of parliament for such cases.*

Punishment to which the party accused will be liable, if convicted.

If the charge shall not be proved, the accuser to be liable to be prosecuted for damages.

Rules contained in this section not meant to debar individuals from prosecuting such judges in the Supreme Court in the first instance, under the acts of parliament.

IX. The Sudder Dewanny Adawlut is empowered to hear and determine appeals, from decisions in suits of a civil nature, which may have been passed, in the provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, by the Board of Commissioners, pursuant to the authority vested in them by His Excellency the Most Noble the Governor General, to act as a court of circuit for the said provinces.

Sudder Dewanny Adawlut to receive appeals from the decisions of the Board of Commissioners, acting as a court of circuit.

X. *First.* If any person shall deem himself aggrieved by the decree of the provincial court of appeal, passed subsequent to the date of the enaction of this regulation, for land, or other real property, being *lakheraj* (exempted from the payment of revenue to Government), the annual produce of which shall exceed five hundred sicca rupees; or for any *zemindaree*, independent *talook*, or other landed estate, being *malguzaree* (paying revenue to Government), where the produce shall exceed five thousand sicca rupees per annum; or for any dependant *talook*, the annual produce of which shall be more than five thousand sicca rupees; and in all other cases where the decree shall be for a sum of money, or personal property, or real property, not of the descriptions before mentioned, the amount value of which shall exceed five thousand sicca rupees; such person shall be at liberty to appeal from the decision, to the Sudder Dewanny Adawlut, by petition of appeal.

From what decrees of the provincial court of appeal, an appeal is to lie to the Sudder Dewanny Adawlut.

Second. In cases in which an appeal shall be intended to be preferred, such appeal shall be presented, in the first instance, to the provincial court of appeal. The provincial court shall on the next court day, or as soon afterwards as may be practicable, admit the same, under the conditions in that respect prescribed.

To whom the petition of appeal is to be first presented.

Third. The petition of appeal shall state (respect being had to the matter decreed) the annual produce of the land, whether *lakheraj* or *malguzaree*, the sum of money, or the value of the property which shall have been decreed; the name of the person in whose favour the decree shall have been given; the court in which it shall have been passed; when it was made; what was decreed by it; and whether the decree has been executed: and shall assign some cause, special or general, for appealing for the decision. The amount adjudged by the provincial court against the party desiring to appeal, or the amount of his claim disallowed by the decree from which he may be desirous to appeal; shall be the standard for determining his right to appeal, under the limitations prescribed by the regulations.

What the petition of appeal is to contain.

What shall be the standard for determining the right to appeal.

Fourth. The petition shall be accompanied with an attested copy of the decree of the provincial court, or by a written declaration signed by the party desirous to appeal, or his *vukeel*, that ten days after the decision was passed, he applied to the court for a copy of the decree, and was denied it.

What the petition of appeal is to be accompanied with.

Period limited for preferring appeals.

Fifth. The petition shall be presented to the court of appeal, in which the decree shall have been passed, within three calender months after the day on which the decree shall have been given. But it shall nevertheless be permitted to such person to prefer his petition of appeal after the expiration of the three months; and the court is authorized to admit the appeal, provided the petitioner can show just and reasonable cause to its satisfaction, for not having preferred it within the limited period. But whenever the court shall admit an appeal which may be preferred to it after the limited time, it shall enter upon its proceedings its reasons at large for admitting the appeal.

Cases in which the Sudder Dewanny Adawlut may admit appeals after the limited time.

Court to record their reasons for admitting an appeal after the limited time.

Execution of decrees appealed from, to be suspended during the appeal, under the prescribed security.

Sixth. In all authorized cases of appeal from the decrees of the provincial court, to the Sudder Dewanny Adawlut, the court in which the decree appealed from shall have been passed, shall suspend the execution of it during the appeal; provided the party against whom the decree shall have been passed, shall at the time of preferring his appeal, or within such reasonable period afterwards as shall be fixed for the purpose, deliver the securities required by this and the next following clause, viz. if the decree be for a *zemindaree*, *talook*, or other land; or for a house, or other real property; good and sufficient security in a sum equal to one year's produce thereof: and in all other cases, good and sufficient security in an amount equal to the sum of money, or value of the thing decreed, for the performance of the decree which may be passed upon the appeal.

Parties desirous of appealing, to deliver good security for the costs that may be awarded on the appeal, including fees of pleaders.

No appeal to be admitted without such security, or proof of inability to find the same.

Presenting a petition of appeal without the required securities, before the expiration of the time limited for appealing, declared not to preserve the right of appeal.

Exceptions.

Seventh. In all authorized cases of appeal, the party desirous of appealing shall with his petition of appeal deliver good and sufficient security for the payment of the costs which shall be awarded on the appeal, including the fees of his pleader, in case he shall intend to employ any in his appeal. Without such security, or without proof of inability to find the same, as required with respect to paupers by Regulation XIV. 1803, no appeal shall be admitted. It is hereby declared, that the presenting a petition of appeal without the security required by this clause, before the expiration of the time limited for appealing, shall not be considered to preserve to the appellant his right of appeal, as far as respects the limitation in question. Provided, however, that if a party appealing, who shall declare his intention to prosecute his appeal in person, shall afterwards be desirous to appoint an authorized *vakeel* to act for him, and with his petition to this effect, or the *vukalutnamah* appointing such *vakeel*, shall deliver good and sufficient security for the fees of such pleader, in addition to the security for costs before delivered by him, such further security shall be admitted; and nothing in this regulation shall be understood to affect the right of appeal in such cases. But no pleader shall, in any instance, be allowed to act in any court, until security shall have been given for his established fees; excepting under the provisions for paupers.

No pleader, however, to act until security has been given for his fees.

Exception.

Eighth. When the securities above required shall have been entered into, the senior judge of the provincial court shall immediately endorse on the petition, in his own handwriting, the day of the month and year in which it was presented; and shall sign it with his name, and shall cause to be written in the margin of the record, immediately opposite to the decree of the court, the word "*appealed*," and shall transmit the petition to the Sudder Dewanny Adawlut. The court shall at the same time direct notice in writing to be given to the appellant, that within fifteen days, the proceedings held in the cause appealed, will be certified to the Sudder Dewanny Adawlut; and that if he shall not proceed in the appeal within six weeks after the petition of appeal shall have been filed in the Sudder Dewanny Adawlut, his appeal will be dismissed, unless he shall show reasonable cause to the satisfaction of that court for not having proceeded in it.

When the appellants have entered into the securities, the senior judge is to make the endorsement herein required;
and transmit it to the Sudder Dewanny Adawlut; and notify to the appellant that the proceedings will be certified to the Sudder Dewanny Adawlut in fifteen days; and that if he shall not proceed in the appeal in six weeks from the date of the petition being filed in the above court, it will be dismissed.

Ninth. Notwithstanding the appellants, in causes depending before the Sudder Dewanny Adawlut, shall have entered into the securities required of them by the above clauses in this section; that court is further authorized, in cases wherein from delay in the decision the securities originally so given may afterwards appear insufficient, in respect to the period of time the cause has been pending, or is likely to remain still undecided, on the application of the respondent, or respondents, in all such cases, to require any additional security which it may deem necessary, to secure the party who shall have obtained a judgment in his favour, from any loss by such judgment not being executed while the appeal shall be depending; and in default of such further security being given within a reasonable period, to be fixed for that purpose, the court is empowered to direct the judgment in question to be carried into execution, in like manner as if no securities had originally been given by the appellant:

Sudder Dewanny Adawlut may in particular cases require further security during appeals, if on application of the parties, the security taken appear insufficient.

In default of such further security being given by appellants, the judgment to be executed.

appellant: provided that in such cases good and sufficient security, as prescribed by the regulations, be given by the respondent, previous to his being put in possession of the property in litigation. The supplemental security required in this clause, as necessary to maintain a depending appeal, is carefully to be distinguished from the securities originally necessary to warrant the cause being appealed. The supplemental security being only demandable by the Sudder Dewanny Adawlut, after a lapse of time; the original securities being requirable by the provincial court, previous to the petition of appeal being admitted.

Provided the prescribed security be given by the respondent.

Tenth. As cases may occur wherein neither the appellant nor the respondent may be able to give the prescribed securities, for staying the execution of the decree; or for the execution thereof in favour of the plaintiff; it is hereby enacted, that in all such cases the property adjudged shall be held in attachment during the appeal; or until such time as one of the parties shall be able to give the required securities, by the collector of the district wherein the land shall be situated; at the expense of the party who may be ultimately declared entitled thereto, under the provisions in that respect established. No attachment, however, shall be made by any collector in the cases herein supposed, until he shall have received a precept, requiring him to make the same, from the provincial court wherein the original judgment in the case shall have been passed; which precept shall state specifically, the property to be included in the attachment; and shall require the collector to continue the same, until ordered to be withdrawn by a farther precept from the court, to be issued either on the prescribed securities being given by one of the parties, or on the cause being finally determined.

Provision for cases wherein neither the appellant nor respondent may be able to give the prescribed securities.

The collectors to hold the adjudged property in attachment, in such case.

Eleventh. If a petition for an appeal to the Sudder Dewanny Adawlut shall be rejected, on whatever ground, by the provincial court; such court shall, on the court day next ensuing, or as soon afterwards as may be practicable, cause the appellant to be furnished with a copy of their order for the rejection of the appeal: and the appellant shall be still at liberty to present his petition of appeal to the Sudder Dewanny Adawlut, in the mode, and under the restrictions prescribed by this section; provided that such petition set forth the previous application made to the provincial court; and the rejection of the appeal by that court; and be accompanied by a copy of the order of rejection, or by a declaration, that such copy was applied for, ten days after the same was passed, and not obtained.

Provincial court, on rejecting a petition of appeal to the Sudder Dewanny Adawlut, to furnish appellant with a copy of their order for such rejection;

And appellant at liberty to present his petition of appeal to the Sudder Dewanny Adawlut, under restrictions prescribed by this section.

Twelfth. If the party desiring to appeal shall neglect or refuse to enter into the securities in the manner prescribed in this section, the court by whom the decision may have been passed, shall order the decree to be executed.

Where the appellant does not comply with the rules of appeal, decree to be executed.

Thirteenth. In all cases wherein an appeal shall lie under the existing regulations to the provincial court of appeal, from the decision of a *zillah* court; and in which the provincial court shall have refused to admit the appeal, on the ground of delay, informality, or other default in preferring it; or after having admitted the appeal, shall dismiss it on the ground of some default, without investigating the merits of the cause; it shall be competent to the Sudder Dewanny Adawlut to receive an appeal from the order of dismissal of the provincial court, whatever may be the amount or value at issue in the cause; provided such appeal be preferred in conformity to the rules prescribed with regard to other appeals to the court of Sudder Dewanny Adawlut; and if it shall appear to that court, on examination of the proceedings of the provincial court, that the appeal was rejected or dismissed by the latter, on insufficient grounds, it may order the provincial court to receive the appeal; or to revive it, if received and dismissed; and to try and determine the cause upon its merits, according to the regulations. Provided further, however, that if such appeals shall on inquiry, be found groundless and litigious, the court of Sudder Dewanny Adawlut shall in all such instances, punish the litigious appellant as authorized by Section 12, in other cases of litigious appeal; viz. by a fine to Government proportionable to the condition of the party, and to the circumstances of the case.

Rules for authorizing the Sudder Dewanny Adawlut to take cognizance, in certain cases, of appeals which the provincial courts may have refused to admit, or dismissed without investigation.

Provision respecting litigious appeals.

XI. The court, within fifteen days after the receipt of the appeal, shall certify under their hands and the seal of the court, to the register of the Sudder Dewanny Adawlut, the record duly made up and authenticated; including the original petition of appeal, and answer of the parties; the original papers and documents received from the *zillah* court; the original

Record, including original papers in the cause appealed, to be transmitted to the register of the Sudder Dewanny Adawlut, in lieu

teen days after the receipt of the appeal.

Copies of all the original papers transmitted, attested by the *serishtadar*, to be deposited amongst the records of the court.

Copies to be deemed records, and to be received in evidence.

Copies of original papers to be sent to the Sudder Dewanny Adawlut, where the original cannot be sent, for the reasons herein specified.

ginal depositions, (where any shall have been taken before the provincial court,) exhibits, and every original paper read in the cause. Previous to transmitting the abovementioned papers to the Sudder Dewanny Adawlut. the provincial court shall cause true and faithful copies of all the originals, authenticated by the *serishtadar*, or head native officer of the court, to be made out and deposited in the court in lieu of the originals. The copies shall be deemed to be records of the court, and shall be received in evidence in any other court. In cases where any original depositions, or other original proceedings or matter whatsoever, shall have been previously entered in the provincial court, in any book, which may likewise contain proceedings in other distinct causes, or any other matter, so that such original papers cannot be transmitted to the Sudder Dewanny Adawlut without the other proceedings or matters; the court, within the time and in the manner before directed, shall certify a true and authentic copy of such original papers, and that the original of each copy transmitted is so entered in such book. But the court shall nevertheless transmit the original petition of appeal, the original answer, or other separate pleadings of the parties, and the original exhibits which shall have been delivered in, or produced by the parties, and read in the course of the cause before the court, if they be forthcoming, in the manner before required. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book, or proceedings, the copy shall be deemed to be the original; and the court shall transmit a copy of it to the Sudder Dewanny Adawlut, and in like manner to certify it, and that after due search, the original cannot be found.

Recorded copies of original papers not forthcoming, to be deemed the originals, and copies of them to be forwarded and certified as herein required.

Interest to be allowed on sums adjudged by the decree appealed from, if confirmed, and litigious appeals to be punished by fine.

XII. If the Sudder Dewanny Adawlut shall confirm the decree of the provincial court, it shall adjudge interest, at the rate of one per cent per mensem, on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree; and the Sudder Dewanny Adawlut is authorized to punish appeals which may appear to it to be litigious, by a fine to Government, proportionate to the condition of the party, and the circumstances of the case.

All process of the Sudder Dewanny Adawlut (with the exceptions herein specified) to be issued through the provincial court of appeal.

XIII. All process, both to parties and witnesses, and every rule or order for the execution of a decree or final order, and every other order whatever, which may issue from the Sudder Dewanny Adawlut, shall be written or printed in such of the languages of the country as the court may direct, and shall be sealed with the seal of the court, and signed by the register. All such process, rules, and orders, which are to be served or executed on any parties, witnesses, or persons, (exclusive of the parties, *vakeels*, or persons in actual attendance on the court,) shall be directed to the provincial court. Every such process, rule, and order, shall limit a certain time in which it is to be served. executed, and returned to the Sudder Dewanny Adawlut. If the provincial court to whom any process, rule, or order whatever may be directed, shall wilfully disobey, or neglect to perform the commands contained in it, or make a false return, the judges of the court who may commit such offence, shall be liable to be suspended from their office by the Sudder Dewanny Adawlut. If the Sudder Dewanny Adawlut shall suspend any judge or judges of the provincial court, under this section, they shall notify the suspension to the Governor General in Council, within ten days after it shall take place, together with the cause of it; and shall certify, under the seal of the court, the proceedings, depositions, and exhibits, and all other matters which may be necessary to enable the Governor General in Council to pass a determination upon the suspension; and to transmit to him, on his requisition, any further papers and proceedings respecting the cause, which he may deem necessary for his information. But the Sudder Dewanny Adawlut is empowered, in cases in which, for the sake of expedition or other purpose, it shall judge it to be expedient so to do, to issue any process to parties or witnesses immediately through the proper *zillah* court, instead of directing it, in the first instance, to the provincial court of appeal. In such cases, the process shall be executed and returned directly to the Sudder Dewanny Adawlut; and the judge to whom it shall be directed shall be subject to the like penalties for making a false return, or other default in the execution of the orders contained in the process, as he would have been liable to, had the process been issued from the provincial court.

Judges of the provincial court liable to be suspended by the Sudder Dewanny Adawlut for refusing or omitting to obey, or to conform to their process or requisitions.

Sudder Dewanny Adawlut to report to the Governor General in Council, the suspension of judges under this section within ten days.

Cases in which the court may issue process to parties or witnesses immediately through the *zillah* courts.

Process of the Sudder Dewanny Adawlut how to

XIV. In all cases in which process, either to a party or witness, and all process whatever, and every rule or order for the execution of any decree or final order, or any order relating

ing to a cause depending in the Sudder Dewanny Adawlut, which may be directed by such court to the provincial court of appeal; the court to which the process shall be directed, shall execute the order contained in the process, rule, or order, and return it so executed within the time limited, or return to the Sudder Dewanny Adawlut good and sufficient reason why it has not been served or executed. When any process, rule, decree, or order for the execution of any decree or final order, or any order whatever, shall be transmitted by the Sudder Dewanny Adawlut to a provincial court of appeal to be served or executed, the return to such process, rule, order, or decree, shall be made by the court, either by endorsement on the process, rule, order, or decree, or be written on a paper firmly annexed to it; and if the return be made in the lastmentioned manner, there shall be an endorsement on the process, rule, order, or decree, referring the Sudder Dewanny Adawlut to the return contained in such annexed paper: and the court shall cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited among the records of the court. And in all cases in which the Sudder Dewanny Adawlut shall transmit any order or process to be served or executed by the provincial court, against a party in a cause, and the party on whom it is to be served or executed, shall not, after diligent search, be found, or shall have absconded, or shall have shut himself up in his own, or in any house or building, or shall retire to any place, so that the process cannot be served upon him; the court to which the process shall have been directed, shall cause to be fixed up in some conspicuous part of the room in which the court shall be held, a writing in the Persian language and character, and in the Hindoostanee language and Nagree character, containing a copy of the order or process; and a notice, that if the party shall not obey the exigence of it within the time limited, the Sudder Dewanny Adawlut will without further notice, process, or order, proceed *ex parte* to hear, try, and determine the cause to which such process or order may relate: and the court shall likewise cause a copy of such writing to be fixed up with all practicable despatch, on the outer door of the house in which the party shall have commonly dwelt, or in some conspicuous place in the village in which he may have usually resided; and to return to the Sudder Dewanny Adawlut in the manner before directed, how he has executed the process.

be served by the provincial court.

To return the process executed, or reasons why it has not been executed.

Form and manner in which the return is to be made.

Court to cause a copy of the process and return to be deposited amongst the records of the court.

Court how to proceed, in case any such process cannot be served upon the party, in consequence of his absconding or otherwise avoiding it.

Court to fix up a writing in the court-room, and at the place of residence of the party.

What the writing is ot contain.

XV. If a provincial court of appeal to which any process, rule, or order of the Sudder Dewanny Adawlut shall be transmitted for the purpose of being served or executed on any party, shall return that the party has absconded, or shut himself up in his own, or in any house or building, or retired to any place, so that the process could not be served upon him, or that he was not after diligent search to be found; and that the court had caused the writing to be fixed up in the places and manner directed; and the party shall not appear and obey the exigence of the process, rule, or order; the Sudder Dewanny Adawlut shall proceed *ex parte* to try and determine the cause in which the process, rule, or order shall have issued, in the same manner as if the party had appeared and obeyed the exigence of the process.

Sudder Dewanny Adawlut to proceed *ex parte*, when the provincial court shall report that a party has absconded, or was not to be found, after the observance of the forms herein directed.

XVI. The Sudder Dewanny Adawlut is empowered in cases of appeal, in which it shall appear to them that the original suit has not been sufficiently investigated in the provincial court of appeal; or for any other cause which may be deemed reasonable by the court; either to receive such further evidence as the court shall think necessary for the just determination of the suit, and give judgment upon it; or to refer the suit back to the provincial court, accompanied by such special directions to the provincial court, with regard to the new evidence it is to receive respecting the suit, as may be deemed by the court most conducive to justice, and the convenience of the parties and witnesses. But in every case in which the Sudder Dewanny Adawlut shall exercise the power above vested in it, the court shall enter upon the record of the trial their reasons for having exercised it. In cases in which the court shall judge it proper to receive such further evidence themselves, the court is empowered, according as it shall deem most conducive to justice, (respect being had to the nature of the cause and the evidence,) either to examine the witnesses to be produced, *vivâ voce*, in open court; first causing the witnesses to be sworn, and their depositions to be reduced into writing, and signed by the deponents respectively, or to authorize the register of the court to swear the witnesses, and take their depositions, and to cause the deponents to sign them, and to authenticate them with their signatures. The register in such case, shall examine the witnesses in the presence of both parties, or their *vakeels*, who are to be at

Cases in which the Sudder Dewanny Adawlut is empowered to take new evidence in appeals, or to refer them back for further evidence to the provincial court.

Sudder Dewanny Adawlut to state its reasons on the record of the trial, whenever it may exercise the powers above vested in it.

Court empowered to hear the evidence in the cases above specified *vivâ voce*, or to order the register to take it.

liberty to put any questions to the witnesses that they may think proper; and the questions, with the answers to them, are in the same manner to be reduced into writing, signed, and authenticated. But if due notice be given to the parties, or their *vakeels*, of the examination of any witness or witnesses before the register, and he or they shall not attend at the time of the examination; the register shall proceed in the examination as before directed, and the depositions shall be received as good and authentic evidence.

Cases in which the Sudder Dewanny Adawlut may dispense with the oaths of witnesses;

or direct their evidence to be taken by commission.

XVII. The Sudder Dewanny Adawlut may dispense with the oaths of the descriptions of witnesses which the *zillah* courts are authorized to exempt from taking oaths, on their signing in open court, the declarations which are required to be subscribed by such witnesses in the *zillah* courts. Where witnesses shall be women of the description specified in Section 7, Regulation III. 1803; or shall reside out of the jurisdiction of the court, and at a distance from it exceeding fifty *coss*; the court shall grant such commissions as the *zillah* courts are authorized to grant for the examination of such witnesses upon similar occasions. And the Sudder Dewanny Adawlut may issue such commissions to creditable women, and send such letters to the provincial court, for the examination of witnesses, in the cases in which the judges of the *zillah* courts are authorized to send such commissions and letters.

Sudder Dewanny Adawlut how to proceed, where witnesses do not attend, or refuse to be sworn, or to give evidence, or sign their depositions, or any persons are guilty of contempt of court, or perjury.

XVIII. If a witness duly summoned shall not attend, or attending, shall refuse to be sworn or give evidence, or to subscribe his deposition; or if such witness, or any person shall be guilty of wilful or corrupt perjury in a cause depending in the court, or any contempt of court, in open court; the Sudder Dewanny Adawlut shall proceed with such witness or person in the same manner, as the provincial court is authorized to deal with the witnesses or persons in like manner offending.

Court to dismiss appeals if the appellants omit to proceed in them within six weeks, without shewing sufficient cause for the omission.

Reasons for the dismission of the appeal to be recorded.

XIX. If the appellant in an appeal, filed in the Sudder Dewanny Adawlut, shall not proceed in the appeal for six weeks, the appeal shall be dismissed, unless the appellant shall show reasonable cause to the satisfaction of the court, for not proceeding in it; and the court shall, if it shall deem it equitable so to do, award to the respondent costs of suit. But in all such cases, the court shall enter at large upon its proceedings, the grounds upon which it may permit or refuse to allow the appellant to proceed.

No persons to be heard *vivâ voce*, in any stage of a cause, excepting principals, their witnesses, or *vakeels* duly empowered.

XX. In such suits as by any regulation shall be authorized to be tried in the first instance before the Sudder Dewanny Adawlut, and in appeals which shall be heard by that court, no proceedings shall be held, nor any acts whatever done, either on behalf of the plaintiff or defendant, or the appellant or respondent, excepting by the plaintiff or defendant, the appellant or respondent, respectively, or by a *vakeel* admitted to plead in the court under the established regulations; nor by any *vakeel*, before his *vakalutnamah* shall have been filed in the court: and no persons excepting such parties, or their witnesses, or such *vakeels* shall be heard, *vivâ voce*, in any stage in the cause.

Sudder Dewanny Adawlut empowered to order the provincial court to enforce decrees for sums of money against proprietors of land, by the same process as those courts may enforce such decrees passed by themselves.

XXI. The Sudder Dewanny Adawlut is empowered, in every case in which a sum of money is decreed to be paid by a *zemindar*, independent *talookdar*, or other actual proprietor of land, to issue an order to the proper provincial courts to execute the decree, in the same manner as the provincial courts are authorized to execute decrees by which a sum of money shall be decreed to be paid, by any of the descriptions of persons above mentioned.

Petitions of appeal from decisions founded on awards of arbitration to be dismissed with costs.

Exceptions to the rule.

XXII. If a petition of appeal shall be preferred against the decision of the provincial court of appeal, founded on an award of arbitration, it shall be dismissed with costs, unless it be fully proved to the satisfaction of the court, by the oaths of two credible witnesses, that the arbitrators have been guilty of gross corruption or partiality in the case in which they shall have made the award.

Court empowered to authorize the provincial and *zillah* courts to make occasional adjournments.

XXIII. The Sudder Dewanny Adawlut is empowered to permit the judges of the provincial court of appeal, and the *zillah* courts, to adjourn their respective courts, occasionally, for any period not exceeding one month; so that such adjournments collectively, do not exceed two months in each year.

Sudder Dewanny Adawlut how to proceed against *zemindars*, independent *talookdars*, or other actual proprietors of land, or dependant *talookdars*,

XXIV. If a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the Sudder Dewanny Adawlut; the court, on proof of the resistance being made by oath to their satisfaction, shall cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in

his own, or any house, or in any building, or retire to any place, so that he cannot be served with the summons; the court shall proceed against him in the manner directed with regard to other persons absconding or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time; or, if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court that he is guilty of the charge; the court shall decree that the offender shall from the date of its decree forfeit his *zemindaree*, *tálook*, or other estate, in which such resistance shall have been made; or, if the resistance shall have been made out of the limits of the estate of the offender, the *zemindaree*, *talook*, or other landed property which he may possess within the jurisdiction of the *zillah* court, to which the execution of the process resisted shall have been committed. The court shall immediately forward a copy of their decree and proceedings to the Governor General in Council. It shall be at the option of the Governor General in Council, on the receipt of a decree adjudging the lands of any person forfeited under this section, either to order it to be executed; or, to commute the forfeiture for such fine, as upon a consideration of the situation and circumstances in life of the offender, he shall think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court, upon receiving notice of the fine which he shall impose, shall levy the amount of it by the same process by which it is directed to enforce its decrees. In the event of the Governor General in Council ordering the decree to be executed, the court shall issue a precept, under the seal of the court, and the signature of the register, requiring the collector of the revenue of the *zillah* to depute an *ameen*, with a proper establishment of officers, (whose allowances shall be specified in the precept,) to sequester the lands, and collect the rents and revenues. If the lands of the defaulter shall be deemed by the court too inconsiderable to admit of their being charged with the expenses of an *ameen*, the court shall direct a precept to be issued to the collector of the *zillah*, to order the nearest *tehsildar*, or other officer employed under him in the business of the collection, to take charge of the lands. The officers shall perform the duties prescribed to *ameens* in such cases, and under the same restrictions and penalties.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

Decree to be passed if the offender shall not appear, or shall appear, and be proved guilty of the charge.

A copy of the decree to be sent to the Governor General in Council.

If the lands are decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine.

If the forfeiture is commuted for a fine, how the amount is to be levied.

If the decree is declared final, the court is to issue a process to the collector to sequester the lands.

XXV. If the decree adjudging the lands of the offender forfeited shall be confirmed, or stand good under Section 24, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever which shall be due to Government from the offender on account of the lands forfeited, and to pay the fixed public revenue assessed upon him; or, if it be a dependant *talookdar*, the revenue payable from it to the proprietor within whose estate it shall be situated; or, to order the lands to be disposed of at public sale.

How lands forfeited under Section 24, are to be disposed of.

XXVI. If a farmer of land, holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which shall at any time issue from the Sudder Dewanny Adawlut; the court, on proof of the resistance being made by oath to their satisfaction, are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own, or in any house or building, or retire to any place so that he cannot be served with the summons; the court shall proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period; or if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge; the court shall decree the lease cancelled, from the expiration of the revenue year in which the decree shall be passed. The Sudder Dewanny Adawlut shall immediately forward a copy of the decree and proceedings to the Governor General in Council. It shall be at the option of the Governor General in Council, on the receipt of a decree adjudging the lease of a farmer annulled under this section; either to order the decree to be executed; or, to commute the forfeiture of the lease for such fine, as upon a consideration of the situation and circumstances in life of the defaulter, he shall think adequate to the offence for which the decree shall have been passed: or, if the offender shall not be desirous

Sudder Dewanny Adawlut how to proceed against persons holding farms of Government, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

Decree to be passed by the court, if the offender shall not appear, or shall appear, and be proved guilty of the charge.

A copy of the decree to be sent to the Governor General in Council.

Option reserved to the Governor General in Council to confirm the decree, or commute it for a fine, and to compel the farmer to perform the conditions of his lease.

desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease; and to hold him and his surety responsible for the discharge of their engagements, until the term of them shall expire. If a fine shall be imposed upon the offender, the court, upon receiving notice of the fine, shall levy the amount of it by the same process as is prescribed for enforcing decrees of the court. If the lease of the offender shall be annulled, and a balance shall be due from him to Government at the close of the year in which the lease shall be cancelled, both he and his surety shall be held responsible for the payment of the amount, and the collector of the revenue of the *zillah* is empowered to proceed against them for the recovery of it, agreeably to the rules in that respect established. The offender is permitted to prosecute in the *adawlut* of the *zillah* in which the farm shall be situated, the dependant *talookdars*, under-farmers, and *ryots* in the lands included in the farm, for any arrears of rent or revenue which shall be due from them to him, on account of the period during which his lease remained in force.

How such fines are to be levied.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

Farmers, whose leases may be cancelled, how to recover balances.

XXVII. If any person not being a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which shall at any time issue from the Sudder Dewanny Adawlut; the court, on proof of the resistance being made by oath to its satisfaction, shall cause the offender to be summoned to answer to the charge. If the person for whom the summons shall be issued shall abscond, or shut himself up in his own, or in any house or building, or retire to any place so that he cannot be served with the summons; the court shall proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period; or, if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge; the court shall adjudge the offender to pay such fine to Government as shall appear to it proper, upon a consideration of his situation and circumstances in life, and of the offence for which the decree may be passed. The court shall proceed to levy the amount, by the same process by which it is empowered to carry its decrees for sums of money into execution.

Court how to proceed against persons resisting process who are not proprietors of land, *talookdars*, or farmers.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

How the court is to enforce payment of the fine.

XXVIII. The petition of appeal, pleadings, depositions, and exhibits in the Sudder Dewanny Adawlut, shall be numbered, marked, dated, and signed by the register, in the same manner as the complaint, pleadings, depositions, and exhibits, are ordered to be numbered, marked, dated, and signed by the register in the *zillah* courts. The decrees shall be signed by the judges present in the court when the decrees shall be passed, and attested by the register; and copies so signed and attested, shall be delivered to the parties.

Proceedings of the Sudder Dewanny Adawlut, how to be numbered, marked, dated, and signed.

Decrees to be signed by the judges, and attested by the register, and copies to be delivered to the parties.

XXIX. The provincial court shall not prepare for the Sudder Dewanny Adawlut, translations of any papers written in the country languages which it may transmit to that court, whether relating to causes appealed, or other matters, unless where particularly so directed to furnish the same, by precept from the Sudder Dewanny Adawlut.

Provincial court not to furnish translates of papers in the country languages which they may transmit to the Sudder Dewanny Adawlut.

XXX. In cases for which no specific rules shall exist, the Sudder Dewanny Adawlut shall act according to justice, equity, and good conscience.

Exception.

Court how to act in cases for which no rule may exist.

XXXI. An appeal shall lie from the decision of the Sudder Dewanny Adawlut, to the King's Most Excellent Majesty, and His Most Honorable Privy Council, in all civil suits, the value of which shall be five thousand pounds, and upwards.

Appeal to His Majesty in Council.

XXXII. *First.* All persons desirous of appealing from a judgment of the court of Sudder Dewanny Adawlut, to the King and Council, are required to present their petition of appeal to the court of Sudder Dewanny Adawlut, either themselves, or through one of the authorized pleaders of the court, duly empowered to present such petition in their behalf, within six calendar months from the date on which the judgment appealed against shall have been passed; under which provision, and provided also the judgment appealed against shall, exclusive of costs of suit, be to the value of fifty thousand current rupees and upwards, the court of Sudder Dewanny Adawlut shall admit the appeal, and proceed upon it as directed in the following sections of this regulation, under the several restrictions therein prescribed.

Petitions of appeal to the King in Council shall be presented to the Sudder Dewanny Adawlut within six months; and such appeal to be admitted, provided the judgment appealed against shall, exclusive of costs, amount to 50,000 current rupees.

Second. For the purpose of determining what causes are appealable to His Majesty in Council, under the limitation of five thousand pounds and upwards; the pound sterling shall be computed at the rate of ten current rupees, being about the medium of the usual rates of exchange; and consequently, making five thousand pounds equivalent to fifty thousand current rupees, or (excluding fractions) sicca rupees forty-three thousand one hundred and three. The value of the property constituting the subject of the judgment appealed against, shall be determined according to the nature of such property; whether land, money, effects, or otherwise; according to the general rules prescribed in like cases for determining the value of the same property, when constituting the cause of action in the Sudder Dewanny Adawlut, and the several civil courts subordinate thereto.

Value of property to be computed according to the general rules prescribed in like cases for the guidance of the Sudder Dewanny Adawlut.

XXXIII. In cases of appeal to His Majesty in Council, the court of Sudder Dewanny Adawlut may either order the judgment passed by it to be carried into execution; taking sufficient security from the party in whose favour the same may be passed, for the due performance of such order, or decree, as His Majesty in Council shall think fit to make on the appeal; or to suspend the execution of its judgment during the appeal, taking the like security, in the latter case, from the party left in possession of the property adjudged against him: but in all cases, security shall be given by appellants to the satisfaction of the Sudder Dewanny Adawlut for the payment of all such costs as the said court shall think likely to be incurred by the appeal; as well as for the performance of such order of judgment, as His Majesty in Council, his heirs or successors, shall think fit to give thereupon: and after receiving such security, the court of Sudder Dewanny Adawlut shall declare the appeal to be admitted, and shall give notice thereof to the appellant and respondent respectively; that they may take measures, the one to prosecute, and the other to defend, the cause in appeal before His Majesty in Council, according to the established mode of proceeding.

The court may either order their judgment to be carried into execution, taking security from the party in whose favour the decree may have been passed to abide the event of the appeal,
or suspend the execution, taking the like security from the party left in possession.

Appellants in all cases to give security for payment of costs, and for the performance of the final order or judgment on the appeal.

Appeal to be declared admitted on receiving such security, and notice to be given to the parties to prosecute and defend the same, according to the established mode of proceeding.

XXXIV. In all cases wherein the Sudder Dewanny Adawlut shall admit an appeal to his Majesty in Council, the court shall cause two exact copies to be made, of all the proceedings held, and judgments or orders given in the case appealed, including the whole of the evidence and documents, (translated into English, if the original documents be in any of the country languages,) and are to transmit the same, as soon as prepared, under their official seal, and the signature of their register, to the Governor General in Council, for the purpose of being forwarded by the first secure and separate conveyances to his Majesty in Council. The register to the Sudder Dewanny Adawlut shall also, on the application of the appellant or respondent, furnish him or them with one or more copies of the proceedings held, and judgments or orders passed in the case appealed; provided they shall respectively agree to defray such expense as shall be incurred thereby, but not otherwise: and the register shall not deliver such copies when prepared without the previous payment of the expense incurred thereby; the amount of which shall be carried to the credit of Government, by whom the necessary expenditure on this account will be made in the first instance.

In all cases of appeal, two copies of all proceedings to be prepared in English, and transmitted under the official seal and signature of the register, to the Governor General in Council, to be forwarded to His Majesty in Council.

The parties also to be furnished with copies of the proceedings on application, provided they agree to pay the expense of preparing the same.

XXXV. In case the judgment appealed from, shall have been passed in pursuance of any local order, regulation, or regulations, enacted by the Governor General in Council, or in case any such regulation shall have been referred to in the judgments passed by any of the courts, wherein the cause appealed from shall have been tried and decided; a copy of such regulation or regulations, or an extract therefrom, containing all that has reference to the matter at issue, shall be annexed to the several copies of the proceedings prepared in conformity to the preceding section, whether for delivery to the parties, or for transmission to his Majesty in Council.

Copies of any local regulation under which the judgment may have been passed, or which may have been referred to, is to accompany the proceedings.

XXXVI. Provided always, that nothing in this regulation is to be understood to bar the full and qualified exercise of His Majesty's pleasure, upon all appeals to him from the decisions of the Sudder Dewanny Adawlut; either in rejecting any he may consider inadmissible, under the act or acts of parliament, or in receiving any he may judge admissible; notwithstanding the provisions made in this regulation; which has reference to the local jurisdiction only, and particularly to that of the Sudder Dewanny Adawlut, as a necessary rule for its guidance.

Nothing herein contained to be understood to bar the exercise of His Majesty's pleasure upon all appeals to him, either in rejecting or admitting such as he may think proper under the act or acts of parliament.

Sudder Dewanny Adawlut authorized to grant in certain cases a review of the proceedings referred to it for that purpose from the provincial and zillah *courts.*

Also to admit of a revision of their own in cases not appealable.

XXXVII. Whereas by the regulations in that respect established, the* zillah *and provincial courts are authorized to consent to a review of decrees passed by them, in suits not appealable to a superior court; the court of Sudder Dewanny Adawlut, in cases so referred to them, in that respect, by the* zillah *and provincial courts, as well as in all cases wherein petitions may be preferred to them for a revision of their own judgments, not open to an appeal to His Majesty in Council, are authorized to grant the review desired; if on due consideration of the reasons urged for the same, the circumstances of the case appear in justice to require it; such, for instance, as an error in judgment appearing on the face of the decree; or, the discovery of new matter or evidence which could not be had, or used at the time when the decree was passed; but no new evidence or matter then in the knowledge of the parties, which might have been used before, shall be a sufficient ground for granting a review, unless, for special reasons, the court of Sudder Dewanny Adawlut should see just cause to admit the same, in which case such reasons are to be recorded at large on its proceedings. The court is further authorized, whenever it may judge it proper to grant a review, to direct the admission or rejection of any new evidence that may be offered; as well as generally to pass such orders upon the case, as it may deem just and equitable; and all orders so passed by the court (except in cases appealable to His Majesty in Council) shall be decisive and final.*

But no evidence or matter which might have been before used, to be a sufficient ground for granting a review, except for special reasons, to be recorded.

Sudder Dewanny Adawlut authorized to direct the admission or rejection of new evidence in certain cases; and to pass such orders as it may deem just; and such orders to be final, except in cases appealable to His Majesty in Council.

Rules for the guidance of the Sudder Dewanny Adawlut on a report of negligence or misconduct in any of the judges or officers of the courts.

XXXVIII. Whenever a report of negligence or misconduct in the discharge of official duty, shall be made to the court of Sudder Dewanny Adawlut, either in pursuance of the latter part of Section 10, Regulation IV. 1803, or of Section 13, Regulation XII. 1803, or in any case not expressly provided for by the regulations; the court of Sudder Dewanny Adawlut, after such inquiry as shall be judged necessary, in proof or explanation of circumstances stated, shall, if the case appear to require the notice of the Governor General in Council, report the same to him, with a copy of all proceedings and papers received on the subject of it, for such orders as may be judged proper.

In what cases court to report to the Governor General in Council.

The court of Sudder Dewanny Adawlut is directed to report to the Governor General in Council, all instances of wilful neglect of duty, or aggravated misconduct by a covenanted servant of the Company, employed in any of the civil courts, whether in a judicial or ministerial capacity; and whether such neglect or misconduct shall have been reported to the court of Sudder Dewanny Adawlut by a provincial or *zillah* court, or shall otherwise appear from the proceedings and papers before the court.

Errors of judgment, or slight defaults, how to be corrected.

But if the case should appear to the court to involve an error of judgment only, or a slight default, for which an admonition from the court shall be deemed a sufficient correction; the court of Sudder Dewanny Adawlut, in the former case, is authorized to notice the error for the information and guidance of the party who may have committed it; or, in the latter case, to advise him of his default, and to admonish him accordingly.

* This section is rescinded by clause first, Section 4, Regulation XXVI. 1814.

A. D. 1805. REGULATION I.

A REGULATION *for empowering the Court of Sudder Dewanny Adawlut to hear and determine Appeals from the Decisions of the Courts of Civil Justice, established under the Authority of the British Government, at Chandernagore and Chinsurah.*—PASSED *by the Governor General in Council, on the* 14*th February* 1805; *corresponding with the* 4*th Phaugun* 1211 *Bengal era; the* 1*st Phaugun* 1212 *Fussily; the* 4*th Phaugun* 1212 *Willaity; the* 1*st Phaugun* 1861 *Sumbut; and the* 13*th Zeekaud* 1219 *Higeree.*

Preamble.

SINCE the capture of the French settlement of Chandernagore, on the 11th June 1793, and of the Dutch settlement of Chinsurah on the 27th July 1795, courts of judicature for the administration of civil justice have been established at each of those settlements, under the authority of the British Government. At Chandernagore, two civil courts have been constituted, the *cutcherree*, or native court; and the tribunal, or European court. The deputy superintendent, and occasionally the assistant *zemindar* (also called the assistant *zemadar*) presides in the *cutcherree*; wherein all causes between native parties, or in which a native of India may be the defendant, are heard and decided, in the first instance; subject to appeal in every case, to the European court. The superintendent is judge of the latter court, and is assisted by the deputy superintendent, as well as by an officer denominated the "Commissaire du Roy," whose duty it is to deliver his opinion, or "conclusions" on the whole proceedings and merits of the case, before a definitive sentence is given by the judge. This tribunal, besides hearing and determining (after taking further evidence, if it appear necessary) all appeals from the native courts, also receives and decides, in the first instance, all suits between Europeans, or in which the defendant may be an European subject to its jurisdiction. But previously to the war between France and Great Britain, an appeal from the sentences of the European court was open to a superior court of appeal at Pondicherry; and during the subjection of Chandernagore to the British authority, the Governor General in Council has both reserved to himself a power of deciding upon points or cases referred to him by the superintendent, and has also heard and determined appeals from judgments passed by the superintendent in his judicial capacity. At Chinsurah, three civil courts have been established; viz. the *cutcherree*, or *zemindar's* court; a court of appeal from decisions passed in the *cutcherree*; and an European court. The *cutcherree* is superintended by the deputy commissioner, and has cognizance of all suits between natives, or in which a native may be the defendant. The commissioner presides as judge in the court of appeal, and hears appeals in all cases from the judgments of his deputy; but does not take new evidence; referring the cause back for further trial, if requisite, in the *cutcherree*. The commissioner is also judge of the European court, assisted by the fiscal, who records his opinion on every matter before the court, previously to a decision or order upon it. In this court all suits between Europeans, or in which Europeans subject to its jurisdiction may be defendants, are tried in the first instance; and the appeal, which before the war with Holland lay from all decrees of the European court to a superior court at Batavia, has been since allowed to the Governor General in Council, from the judgments of the commissioner, in the same manner as at Chandernagore. The late renewal of war between Great Britain, France,

and Holland, rendering it uncertain how long the settlements of Chandernagore and Chinsurah may remain under the authority of the British Government, and the Governor General in Council being desirous that the inhabitants of those settlements, whilst they continue under British protection, should, as far as circumstances admit, enjoy the benefit of the same provisions as have been made for administering the judicial functions of the Government, throughout the Company's provinces, by the means of courts of justice distinct from the legislative and executive authority of the state, he has resolved to empower the court of Sudder Dewanny Adawlut, established at the presidency, to hear and determine appeals from the decisions of the European courts at Chandernagore and Chinsurah, in all suits instituted, heard, and determined in those courts, in the first instance; as well as a further appeal in causes originally tried in the *cutcherree*, and heard in appeal before the superintendent at Chandernagore, or commissioner at Chinsurah, under a limitation, in such cases similar to that which restricts the right of appeal to the Sudder Dewanny Adawlut, from the decrees of the provincial courts of appeal. The Governor General in Council has accordingly enacted the following rules, to be in force as soon as promulgated; and to remain in force whilst the settlements of Chandernagore and Chinsurah shall continue under the authority of the British Government.

An appeal allowed to the Sudder Dewanny Adawlut in all suits instituted, heard, and determined in the first instance in the European courts of civil justice at Chandernagore and Chinsurah; provided the appeal be preferred within three months, or that sufficient reason be assigned for any delay beyond that period.

II. *First.* In all suits and causes of a civil nature, instituted, heard, and determined in the first instance in the European courts of civil justice established at Chandernagore and Chinsurah, an appeal from the sentences, decrees, or other final judgments or orders passed by the superintendent at Chandernagore, or commissioner at Chinsurah, in his capacity of judge of those courts, or by any other person who may at any time be authorized to act as judge of the said courts, shall lie to the court of Sudder Dewanny Adawlut established at Calcutta; provided that the petition of appeal be preferred within three months after the sentence, decree, or other final judgment or order appealed from, shall have been passed; or if not preferred within this period, that sufficient reason for the delay be assigned, to the satisfaction of the court of Sudder Dewanny Adawlut.

An appeal to the Sudder Dewanny Adawlut allowed in suits originally heard and determined in the native courts of civil justice at Chandernagore and Chinsurah, and subsequently heard and decided in appeal by the courts of appeal at those settlements; provided the amount or value adjudged, exceed the sum of five thousand sicca rupees, and that the appeal be preferred within three months, or that sufficient reason be assigned for any delay beyond that period.

Second*. *In all suits and causes of a civil nature, instituted, heard, and determined in the first instance, in the* cutcherrees, *or native courts of civil justice, established at Chandernagore and Chinsurah, (and subsequently heard and determined, in appeal, before the superintendent at Chandernagore, or commissioner at Chinsurah,) in his judicial capacity, or by any other person who may be authorized to exercise appellate jurisdiction in such cases, an appeal from the sentence, decree, or other final judgment or order passed upon such appeals, shall also lie to the court of Sudder Dewanny Adawlut established at Calcutta; provided that the amount or value adjudged against the party desiring to appeal, according to the usual mode of computation within the settlements above mentioned, shall exceed the sum of five thousand sicca rupees; and that the petition of appeal be preferred within three months after the sentence, decree, or other final judgment or order appealed from, shall have been passed; or if not preferred within this period, that sufficient reason for the delay be assigned to the satisfaction of the court of Sudder Dewanny Adawlut.*

Discretionary power reserved to the Sudder Dewanny Adawlut, of admitting special appeals in certain cases, although the amount adjudged may be less than five thousand rupees.

Third. *In the suits and causes described in the preceding clause, it shall further be competent to the court of Sudder Dewanny Adawlut to admit a special appeal, although the amount or value of the cause of action may be less than five thousand sicca rupees, if, on the face of the sentence or decree from which the appeal may be desired, it shall appear to the Sudder Dewanny Aadwlut erroneous or unjust; or if, from the nature of the cause as stated in the sentence or decree, it shall appear to that court of sufficient importance to merit a further investigation in appeal, although within the amount specified in the preceding clause.*

Appeal to the Sudder Dewanny Adawlut allowed by clauses first and second of the preceding section, not demandable in suits adjudged more than three months before the

III. The appeal to the court of Sudder Dewanny Adawlut, which is allowed by clauses first and second of the foregoing section, shall not be demandable by the parties in any suits which may have been tried and adjudged by the established courts of justice at Chandernagore and Chinsurah, more than three months before the date of this regulation, and

* Clauses second and third, are rescinded by Section 2, Regulation IX. 1809.

against which no appeal, petition, or representation may have been preferred to the Governor General in Council. But the court of Sudder Dewanny Adawlut shall hear and determine all appeals which may have been preferred to the Governor General in Council, or for the admission of which any petitions or representations may have been received by the Governor General in Council, and which may be referred by his order, for the investigation and decision of the Sudder Dewanny Adawlut. That court is also empowered to admit a special appeal in any other cases adjudged by the European court, or court of appeal at Chandernagore or Chinsurah, above three months before the date of this regulation, if good and sufficient reason be assigned by the appellant for not having preferred his appeal to the Governor General in Council at an earlier period. But the discretionary power hereby vested in the court of Sudder Dewanny Adawlut, to admit retrospective appeals, in particular cases, wherein the ends of justice may appear to require it, is to be exercised with caution; and such appeals are not to be allowed without satisfactory reason for their not having been before brought forward.

date of this regulation, and respecting which no appeal, petition, or representation, may have been referred to Government.

But Sudder Dewanny Adawlut to determine all appeals referred to that court by the Governor General in Council.

Also empowered to admit a special appeal in particular cases; but caution to be observed in admitting such appeals.

IV. *First.* In all appeals to the court of Sudder Dewanny Adawlut, under this regulation, the petition of appeal is to be presented to the superintendent at Chandernagore, or commissioner at Chinsurah, in his judicial capacity, or to whoever may be officiating as judge of the European court and court of appeal, at those settlements respectively; and shall contain, besides such information of the case as may shew that it is appealable to the Sudder Dewanny Adawlut, a full and explicit statement of the appellant's objections to the sentence or decree from which he is desirous to appeal. The appellant shall, at the same time, tender good security for the payment of any costs or fine which may be adjudged on the determination of his appeal by the court of Sudder Dewanny Adawlut; or if unable to give such security, shall make oath of his inability, and adduce two credible persons to attest the same; and shall also furnish two sufficient sureties for his personal appearance when required.

Petition of appeal to the Sudder Dewanny Adawlut, to be presented to the judge at Chandernagore or Chinsurah.

What to contain.

Security to be at the same time tendered by the appellant; or proof of his inability to give such, and sureties for personal appearance.

Second. On the receipt of the petition of appeal, with the prescribed security, or sureties for appearance, the judge by whom the same may be received, shall cause a copy or exemplification to be made, of the sentence or decree from which the appeal may be desired; and within fifteen days, or as soon as the exemplification of the judgment appealed from can be prepared, shall certify and transmit the same, with the petition of appeal, for the information and orders of the Sudder Dewanny Adawlut. That court will then determine whether the appeal be admissible or otherwise, and in the event of its being admitted, shall cause a precept to be issued, under the seal of the court, and the signature of the register, addressed to the judge of the proper court at Chandernagore or Chinsurah; requiring him, within such time as may be limited by the precept, to call upon the respondent or respondents in the cause appealed, for his or their answer to the petition of appeal, and to certify and transmit the same to the Sudder Dewanny Adawlut, together with a complete record of all papers received, and of all proceedings held, or orders passed, upon the case in appeal.

Rule of proceeding to be observed by the judge, on the receipt of petitions of appeal, with the prescribed security or sureties.

Precept to be issued by Sudder Dewanny Adawlut on admitting an appeal.

Third. The judge to whom the precept may be so addressed, shall comply with the exigency thereof, as required; or in the event of his not being able to carry the same into complete execution within the period limited, shall certify the same to the court of Sudder Dewanny Adawlut; with notice of the period within which a further return will be made of the execution of such precept.

The judge to comply with the exigency of the precept, or if not able to carry it into execution within the limited period, to certify the same, with notice of the period in which a further return will be made.

V. *First.* The situation of many of the inhabitants of Chandernagore and Chinsurah not admitting of their personal attendance on the court of Sudder Dewanny Adawlut, and the native pleaders attached to that court not being conversant in the languages in which it has been usual to hold the judicial proceedings in the courts of justice at those settlements, it shall not be required, either from appellants or respondents, to attend in person, or by *vakeel*, at the court of Sudder Dewanny Adawlut, for the prosecution or defence of appeals in that court. But if any reference to the parties should be found necessary by the court, or if occasion should arise for any pleading or petition of either party, in addition to the petition of appeal and answer, for which provision is made by the preceding section, such reference shall be made, and pleading or petition received, in like manner, through the judge of the court in which the sentence or decree appealed from may have been passed; unless

Appellants and respondents not required to attend in person, or by *vakeel*, before the Sudder Dewanny Adawlut.

Rule to be observed, if any reference to parties should be found necessary by the Sudder Dewanny Adawlut, or if occasion should arise for

any pleading, or petition, on appeals to that court, in addition to the petition of appeal and answer, and the parties may not be in attendance, or have appointed an established pleader.

the court of Sudder Dewanny Adawlut shall, in any instance, see reason to adopt a different mode of reference to parties in appeals before them ; or unless both parties in any pending appeal, shall, of their own accord, appear personally before that court, or shall appoint one or more of the established pleaders of the court, to appear for them ; in which cases the court of Sudder Dewanny Adawlut may refer to the appellant or respondent, or receive pleadings or petitions from either of them, in person, or through their appointed pleaders, as shall be judged proper.

Court of Sudder Dewanny Adawlut authorized to receive from parties, or through established pleaders, or, on reference, from Government, petitions relative to any matters of judicial cognizance depending before, or decided by the judge at Chandernagore or Chinsurah, and to issue orders thereupon.

Second. The court of Sudder Dewanny Adawlut are also empowered to receive from any party attending the court in person, or through any of the established pleaders of the court, or on reference to the court, by order of the Governor General in Council, any petitions relative to causes, or matters of judicial cognizance, depending before or decided by the judge at Chandernagore or Chinsurah, and to issue such orders thereupon as may appear necessary and proper, so that the same be consistent with the general principles and provisions of this regulation.

Court of Sudder Dewanny Adawlut authorized to refer back for further trial and judgment, any cause in appeal not sufficiently investigated; or to direct the taking and transmission of further evidence

VI. In cases wherein it may appear to the court of Sudder Dewanny Adawlut that the cause in appeal has not been sufficiently investigated, and consequently that further evidence is required for the just determination of it, that court is empowered to refer the cause back for further trial and judgment to the court in which it may have been originally tried, or in which it may have been heard in appeal ; or to direct that the further evidence required be taken and transmitted by the judge at Chandernagore or Chinsurah, as may be deemed by the court most conducive to justice, and the convenience of the parties.

All process issued by the court of Sudder Dewanny Adawlut to be addressed to the judge of the proper court, who is directed to conform thereto, or to certify why he has not carried it into execution.

VII. All process of whatever description, and every rule or order, which may be issued by the Sudder Dewanny Adawlut, relative to appeals to that court under this regulation, or relative to any petitions preferred to that court, or referred to it by the Governor General in Council, concerning any cause or matter of judicial cognizance, depending before, or decided by the courts of justice at Chandernagore or Chinsurah, shall be addressed to the judge of the proper court, who is hereby required to conform to all process, rules, and orders, which may be so addressed to him, under the seal of the court and the signature of the register, and to perform the exigency thereof, within the time limited for the execution of all such process, rules, and orders, or to certify good and sufficient reason why the same has not been carried into execution, as required.

The same laws and usages as govern the decisions of the courts of justice at Chandernagore and Chinsurah, to govern the decisions of the Sudder Dewanny Adawlut in all appeals under this regulation.

VIII. The laws and usages which govern the decisions of the courts of justice established at Chandernagore and Chinsurah, shall also govern the decisions of the court of Sudder Dewanny Adawlut, in all appeals under this regulation. The particular law or usage which may have influenced the original judgment, if not specifically stated or referred to, in the sentence or decree, shall be certified with the record of the cause transmissible to the Sudder Dewanny Adawlut in pursuance of clause second, of Section 4. That court may also require evidence of any local usage, which has reference to the case in appeal, and may not appear to have been sufficiently established by the proceedings held upon it

Particular law or usage which may have influenced the judgment, if not referred to in the decree, to be certified, with the record of the cause, to the Sudder Dewanny Adawlut, which court may also require evidence of any local usage.

The regulations in force, or which may hereafter be enacted, for the general administration of civil justice in the British provinces, declared not to be applicable to appeals under this regulation, unless fully consistent with the provisions of it.

IX. The regulations which have been enacted, or which may be hereafter enacted, for the general administration of civil justice in the British provinces, under this presidency, and particularly for the guidance of the Sudder Dewanny Adawlut, shall not be considered applicable to the appeals intended to be provided for by this regulation, except as far as they may be fully consistent with the provisions contained in it; and may be, in all respects, applicable to such appeals. In cases not affecting the rights of parties, however, and particularly as far as respects the powers and authority of the Sudder Dewanny Adawlut over the provincial, *zillah*, and city courts of civil justice, the principles of the general regulations in force, shall be considered applicable to the courts of civil justice established at Chandernagore and Chinsurah.

But principles of the general regulations in force, declared applicable to the powers and autho-

X. The court of Sudder Dewanny Adawlut is empowered to frame such rules of practice, as may be found most convenient for carrying into full effect the several provisions of this regulation; and also to prescribe an observance of the same to the courts of justice at Chandernagore and Chinsurah.

XI. No institution fee shall be levied upon appeals preferred to the Sudder Dewanny Adawlut under this regulation; nor shall it be requisite to use stampt paper for the pleadings or decrees upon such appeals; but in the event of its appearing to that court, on consideration of the proceedings held upon the case, that the appeal is without foundation, and evidently vexatious or litigious, it shall be punishable by a fine to Government, proportionable to the circumstances of the case, and the condition of the party, to be determined by the court of Sudder Dewanny Adawlut. Any instance of contempt of court, or other personal misconduct, in the course of any judicial proceeding before that court, or any contempt of the established courts of justice at Chandernagore and Chinsurah, shewn by the parties in appeals from those courts, or by any person whatever amenable thereto, in any pleading, petition, or other communication to the Sudder Dewanny Adawlut, shall also be punishable by a fine to Government to be adjudged by that court. And whenever a fine imposed under this section may not be paid by the party, or be recoverable from his property or security, he shall be liable to close imprisonment in commutation of the fine so imposed, for such period, not exceeding six months, as may be ordered by the court of Sudder Dewanny Adawlut.

rity of the Sudder Dewanny Adawlut.

The court of Sudder Dewanny Adawlut empowered to frame rules of practice, and to prescribe an observance of them to the courts of justice at Chandernagore and Chinsurah.

No institution fee to be levied on appeals to the Sudder Dewanny Adawlut under this regulation, nor stampt paper requisite for the pleadings or decrees thereupon.

But litigious, groundless, or vexatious appeals declared punishable by a fine to Government.

XII. *First.* In cases of appeal to the Sudder Dewanny Adawlut, the sentence or decree appealed from shall not be carried into execution, during the appeal to that court, provided the appellant shall give good and sufficient security for the performance of the final decision, which may be passed upon the appeal; unless in any particular case, upon the report of the judge at Chandernagore or Chinsurah, or from other information before the Sudder Dewanny Adawlut, that court shall deem it just and necessary to order the immediate execution of the judgment appealed from. But, to prevent an abuse of this rule, whenever the court of Sudder Dewanny Adawlut may confirm the decree appealed from, and such decree may not have been executed during the appeal, interest at the rate of one per cent. per mensem, shall be adjudged to the respondent, upon all sums receivable by him under the judgment in his favour, from the date on which such judgment may have been passed, together with any costs which may have been incurred by him upon the appeal.

Contempts of court or other personal misconduct in any judicial proceeding, also punishable by fine; and parties liable to imprisonment, not exceeding six months, when the fine imposed upon them, may not be paid, or be recoverable from their property or securities.

Execution of decrees to be suspended during appeals to the Sudder Dewanny Adawlut, provided the appellant give sufficient security for the performance of the final decision.

Exception.

Second. In the event of the appellant's not giving sufficient security for staying the execution of the sentence or decree appealed from, and of its being consequently put in execution, as well as in cases wherein the court of Sudder Dewanny Adawlut may direct the execution of a judgment appealed from, before a final determination upon the appeal, good and sufficient security shall be taken from the respondent for the performance of the final decision which may be passed upon the appeal; and until such security be received, the respondent shall not be put in possession of any part of the property, or amount, adjudged to him.

Provisions to prevent an abuse of the above rule.

Decree to be carried into execution, if the appellant fail to give security, or in cases wherein the Sudder Dewanny Adawlut may direct the same, and security to be taken from respondent for the performance of the final decision.

Third. In case neither party shall be able to give the requisite security, the property in dispute, if land, house, or other property capable of attachment, or if the judgment be for money, any property liable to attachment and sale for the recovery of it, shall be attached, by order of the court in which the judgment appealed from may have been passed, until the security required be received; or until a final determination be passed upon the case: and any perishable property attached in such cases may, with the sanction of the Sudder Dewanny Adawlut, be converted into money by public sale.

Rule to be observed, if neither party be able to give security.

XIII. The judgments of the Sudder Dewanny Adawlut shall be final and conclusive in all appeals heard and determined by that court, under this regulation, within the limitation prescribed by the statute of the 21st George III. Cap. LXX. Section 21; viz. five thousand pounds; or fifty thousand current rupees. If the amount or value adjudged shall, exclusive of costs of suit, exceed the sum of five thousand pounds, or fifty thousand current rupees, a further appeal will be open to His Majesty in Council, and shall be received by the Sudder Dewanny Adawlut, under the provisions which have been enacted for receiving such appeals, in Regulation XVI. 1797.

Judgments of Sudder Dewanny Adawlut declared final and conclusive, within the limitation prescribed by the statute of the 21st George III. Cap. 70. Judgments exceeding fifty thousand current rupees, exclusive of costs, appealable to the King in Council. Such appeals to be received by the Sudder Dewanny Adawlut, under the provisions of Regulation XVI. 1797.

XIV. The superintendent at Chandernagore and commissioner at Chinsurah, on the receipt of this regulation, shall cause it to be exactly translated into the French and Dutch languages, and to be published in the courts of justice, at those settlements, as well as in such other places, and in such manner, as may be customary, for general information.

Superintendent of Chandernagore and Commissioner at Chinsurah to cause this regulation to be translated into the French and Dutch languages, and to be published for general information.

A. D. 1805. REGULATION X*.

A REGULATION *for amending the Constitution of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, as far as relates to the Appointment of the Chief Judge of those Courts.*—PASSED *by the Governor General in Council, on the* 25*th July* 1805; *corresponding with the* 11*th Sawun* 1212 *Bengal era; the* 14*th Sawun* 1212 *Fussily; the* 11*th Sawun* 1212 *Willaity; the* 14*th Sawun* 1862 *Sumbut; and the* 27*th Rubbee-us-Sanee* 1220 *Higeree.*

Preamble.

WHEREAS *with the view of providing for the more expeditious and effectual administration of justice in the courts of Sudder Dewanny Adawlut and Nizamut Adawlut, it was enacted by Regulation II.* 1801, *that the Governor General and the Members of the Supreme Council should be divested of the judicial powers formerly exercised by them as judges of those courts, and that the administration of justice in the said courts should be committed to three judges, and that the chief judge only should be a member of the Supreme Council, and that the other two judges should be civil servants of the Company not being members of the Supreme Council: And whereas the exercise of the functions of chief judge of the said courts by a member of the Supreme Council is not only liable in a great degree to the objections which exist to the exercise of the functions of judges of those courts by the Governor General, and the members of the Supreme Council collectively, but is moreover exceptionable on grounds connected with the nature of the relations subsisting between such chief judge as a member of the supreme executive branch of the Government and the Governor General, and the other members of that branch of the Government: And whereas the various important and laborious duties of the members of the Supreme Government render it impracticable for any member of that Government to discharge the extensive and arduous duties of chief judge of the said courts: And whereas it is essential for the purpose of giving full effect to the provisions made by the constitution established for the internal government of the British territories subject to the immediate government of this presidency by the regulations passed on the* 1*st of May* 1793, *for ensuring to the people the permanent enjoyment of the inestimable blessing of just laws duly administered, that the separation of the judicial authority from the executive authority in all their respective branches and gradations, (which formed a fundamental principle of that constitution,) should be carried into full and complete execution both in form and in practice; the Governor General in Council has enacted the following rules, to be in force from the date of this regulation.*

The chief judge of the courts of Sudder Dewanny Adawlut and Nizamut Adawlut to be selected from among the civil covenanted servants of the Company not being members of the Supreme Council.

II. Such parts of Sections 3, *and* 10, *Regulation II.* 1801, *as direct that the chief judge of the court of Sudder Dewanny Adawlut, and the court of Nizamut Adawlut, shall be a member of the Supreme Council, to be selected by the Governor General in Council, is hereby rescinded, and the chief judge of the said courts shall be selected by the Governor General in Council from among the civil covenanted servants of the Company not being members of the Supreme Council.*

* This regulation is rescinded by Section 2, Regulation XV. 1807.

A. D. 1807. REGULATION XV.

A REGULATION *for modifying the Constitution of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, so far as relates to the Appointment of the Judges of those Courts.*—PASSED *by the Governor General in Council, on the* 23*d July* 1807; *corresponding with the* 9*th Sawun* 1214 *Bengal era; the* 4*th Sawun* 1214 *Fussily; the* 9*th Sawun* 1214 *Willaity; the* 4*th Sawun* 1864 *Sumbut; and the* 16*th Jemaud-ul-Awul* 1222 *Higeree.*

Preamble.

WHEREAS it has been deemed advisable to modify the provision contained in Section 2, Regulation X. 1805, respecting the appointment of the judges of the courts of Sudder Dewanny Adawlut and Nizamut Adawlut; the following regulation has been passed, to be in force, from the time of its promulgation, throughout the provinces immediately dependant on the Presidency of Fort William.

Section 2, Regulation X. 1805, rescinded.

II. Section 2. of Regulation X. 1805, is hereby rescinded.

A Chief Judge, being a member of the Supreme Council, and three puisne judges, to constitute in future the courts of Sudder Dewanny Adawlut and Nizamut Adawlut.

III. The courts of Sudder Dewanny Adawlut and Nizamut Adawlut shall in future consist of a chief judge, being a member of the Supreme Council, but not the Governor General, nor the Commander in Chief; and of three puisne judges, to be selected from among the Company's covenanted servants.*

* This section is rescinded by clause first, Section 2, Regulation XII. 1811.

A. D. 1811. REGULATION XII.

A REGULATION *for augmenting the Number of Judges of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, according as may from time to time appear necessary for the Despatch of the Business of those Courts.*—PASSED *by the Vice-President in Council, on the 27th August* 1811; *corresponding with the* 12*th Bhadoon* 1218 *Bengal era; the* 23*d Bhadoon* 1218 *Fussily; the* 13*th Bhadoon* 1218 *Willaity; the* 8*th Bhadoon* 1868 *Sumbut; and the* 7*th Shabaan* 1226 *Higeree.*

Preamble.

WHEREAS it is enacted by Section 3, Regulation XV. 1807, that the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, shall consist of a chief judge, being a member of the Supreme Council, but not the Governor General or Commander in Chief; and of three puisne judges, to be selected from among the Company's covenanted servants; And whereas the increased number of trials in those courts renders it necessary, that the number of judges should be augmented; the following rules have been enacted, to be in force from the period of their promulgation.

Section 3, Regulation XV. 1807, rescinded.

II. *First.* Section 3, Regulation XV. 1807, is hereby rescinded.

What number of judges the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut shall in future consist of.

Second. The Courts of Sudder Dewanny Adawlut and Nizamut Adawlut, shall in future consist of a chief judge, and of as many puisne judges, as the Governor General in Council may from time to time deem neccessary for the despatch of the business of those courts.

A. D. 1814. REGULATION XXV.

A REGULATION *for modifying the Constitution and Jurisdiction of the Sudder Dewanny Adawlut, and of the Provincial Courts, for expediting the Trial of Civil Causes in those Courts, and for defining more fully the Powers of single Judges holding the Sittings of those Courts, or of the Nizamut Adawlut, and Courts of Circuit.*—PASSED *by the Vice-President in Council, on the 29th November* 1814; *corresponding with the* 15*th Aughun* 1221 *Bengal era; the* 2*d Aughun* 1222 *Fussily; the* 16*th Aughun* 1222 *Willaity; the* 2*d Aughun* 1871 *Sumbut; and the* 16*th Zeheija* 1229 *Higeree.*

Preamble.

WHEREAS it is expedient, that such persons only as may have been previously employed during sufficient periods in the discharge of judicial functions should be hereafter appointed to the office of judge in the Sudder Dewanny and Nizamut Adawlut, and in the provincial courts and courts of circuit; and whereas it is requisite, with a view to expedite the decision of civil causes, to make certain modifications in the existing rules regarding the jurisdiction of those courts in the trial of original suits and appeals; and whereas it has become necessary, for the purpose of removing certain doubts, which have arisen regarding the construction of Sections 2. and 6, Regulation XIII. 1808, to modify and explain the rules contained in those sections; and to make further provision for the guidance of the Sudder Dewanny Adawlut, and Nizamut Adawlut, and of the provincial courts and courts of circuit, when a difference of opinion may arise among the judges of those courts, and to define more fully the powers to be exercised and the duties to be performed by single judges of those courts, the following rules are hereby enacted to be in force from the 1st of February 1815, throughout the territories immediatly dependant upon the presidency of Fort William.

Rules regarding the appointment of judges of the provincial courts.

II*. *From and after the* 1*st February* 1815, *no person shall be deemed qualified to be appointed to the office of a judge of a provincial court or court of circuit, unless he shall have previously officiated as judge or magistrate of a* zillah *or city court for a period not being less than three years, or unless he shall have been previously employed in the judicial department, or in offices requiring the discharge of judicial functions, whether of a criminal or civil nature, for a total period not being less than six years.*

Cases in which suits exceeding 2000 rupees in amount may be transferred from the *zillah* and city courts to the provincial courts.

III. *First.* All original regular civil suits, in which the value or amount of the claim, calculated according to the provisions of Section 14, Regulation I. 1814, may not exceed five thousand rupees, shall be instituted and tried as heretofore in the *zillah* and city courts; but if it shall at any time appear, that from the pressure of business in any *zillah* or city court, suits exceeding one thousand rupees in value or amount can be more conveniently and expeditiously tried in the first instance by the provincial court of the division, than by the *zillah* or city court, before which they may be depending; it shall be competent to the Sudder Dewanny Adawlut to order the transfer of all or any of such suits to the said provincial court.

* This section is rescinded by Section 8, Regulation IV. 1823.

Rules regarding the transfer and trial of such suits.

Second. In the transfer and trial of such suits, the provincial courts shall be guided by the same provisions, as are prescribed for their guidance in the transfer and trial of suits exceeding five thousand rupees in value or amount.

An appeal to lie to the provincial court in all suits tried in the first instance by *zillah* and city judges, and in suits tried by registers exceeding 500 rupees in amount.

Third. An appeal shall lie to the provincial court from the decisions passed by the *zillah* and city judges on all regular civil suits tried and determined by them in the first instance, as well as from the decisions which may be passed by registers under clause sixth, Section 9, Regulation XXIV. 1814, in suits exceeding five hundred rupees in value or amount.

In what cases a special appeal may be admitted by provincial courts, and how they are to be tried.

Fourth. The provincial courts are further empowered to admit a second or special appeal from decisions passed by the *zillah* and city judges, on regular appeals from the original judgments of registers, *sudder ameens*, and *moonsiffs*. Such special appeals are to be admitted and tried under the rules and restrictions contained in Section 2, Regulation XXVI. 1814.

Provisions regarding reviews and summary appeals.

Fifth. Nothing in this regulation shall be construed to prohibit the provincial courts from applying for permission to review their own judgments, or from admitting summary appeals in the cases provided for by clause third, Section 3, Regulation XXVI. 1814.

Rules regarding the appointment of judges of the Sudder Dewanny and Nizamut Adawlut.

IV. From and after the 1st of February 1815. no person shall be deemed qualified to be appointed to the office of a judge of the Sudder Dewanny or Nizamut Adawlut, unless he shall have previously officiated as judge of a provincial court of appeal, or of a court of circuit, for a period not being less than three years; or unless he shall have been previously employed in the judicial department, or in offices requiring the discharge of judicial functions, whether of a criminal or civil nature, for a total period not being less than nine years.*

The Sudder Dewanny Adawlut authorized to direct the transfer of suits exceeding 50,000 current rupees in value from the provincial courts to the Sudder Dewanny Adawlut.

V. *First.* All original regular suits in which the value or amount of the claim, calculated according to the provisions of Section 14, Regulation I. 1814, may exceed five thousand sicca rupees, shall be instituted and tried as heretofore in the provincial courts; but if it shall at any time appear to the Sudder Dewanny Adawlut, that from the pressure of business in any of the provincial courts, suits amounting to fifty thousand current rupees (or 43,103 sicca rupees), being the amount fixed for appeals to the King in Council, can be more conveniently or expeditiously tried in the first instance, by the Sudder Dewanny Adawlut, than by the provincial court before whom they may be depending, it shall be competent to the Sudder Dewanny Adawlut to order the transfer of all or any of such suits from the provincial courts to the Sudder Dewanny Adawlut. In the transfer and trial of such suits, the Sudder Dewanny Adawlut shall be guided by the same provisions as are prescribed for the conduct of the provincial courts regarding the transfer and trial of original suits exceeding five thousand rupees in value, depending in the *zillah* and city courts.

An appeal to lie to the Sudder Dewanny Adawlut in all suits tried in the first instance, by the provincial courts.

Second. An appeal shall lie to the Sudder Dewanny Adawlut from the judgments passed by the provincial courts, in all regular civil suits which may be tried and determined in the first instance by those courts, under the rules heretofore in force, or in conformity with Section 3. of this regulation.

In what cases a special appeal may be admitted by the Sudder Dewanny Adawlut.

Third. The Sudder Dewanny Adawlut is further empowered to admit a second or special appeal from the judgments passed by provincial courts, on regular appeals admitted by them, from original decisions of *zillah* and city judges and assistant judges, or from the original decisions of registers passed under the provisions of clause sixth, Section 9, Regulation XXIV. 1814.

How such special appeals shall be received and tried.

Fourth. In receiving and trying such special appeals, the Sudder Dewanny Adawlut is to be guided by the rules contained in Section 2, Regulation XXVI 1814.

Provisions regarding reviews and summary appeals.

Fifth. Nothing contained in this regulation shall be construed to preclude the Sudder Dewanny Adawlut from authorizing the several courts of civil judicature to revise their own judgments, or to preclude the Sudder Dewanny Adawlut from admitting a summary appeal under the provisions contained in Section 3, Regulation XXVI. 1814.

In what cases separate sittings of the provincial

VI. In addition to the provision made by clause second, of Section 2, Regulation XIII. 1810, for the regular sittings of the provincial courts being held before a single judge, when-

* This section is rescinded by Section 8, Regulation IV. 1823.

courts may be held before one or more judges of those courts.

ever from the absence, or indisposition, of one or more of the judges of a provincial court, or any other unavoidable cause, the regular sittings of a provincial court cannot be held before two or more judges of such court, it is hereby provided, that whenever from the number of original causes and appeals, depending before a provincial court, it may appear requisite, for the speedy trial and decision of such causes and appeals, or for the general despatch of business depending before the court, that separate sittings of the court should be held at the same time, before one or more judge respectively, and the number of judges present at the station may admit of such separate sittings being held, it shall be competent to the judges of the provincial courts to hold the same, and to pass orders or judgments, in conformity with the regulations, subject to the same restrictions when the sitting may be held before a single judge, as are prescribed by the rules in force, with respect to single judges of the provincial courts holding sittings of those courts, under the provisions of Section 2, Regulation XIII. 1810.

Under what restriction single judges may pass orders or judgments, in such cases.

Rules in Sections 3. and 4, Regulation XIII. 1810, applicable to powers and duties of single judges of the provincial courts under the present regulation.

VII. The rules contained in Sections 3. and 4, Regulation XIII. 1810, respecting decisions passed by a single judge, and the general duties to be performed and the powers to be exercised by single judges of the provincial courts, under that regulation, shall be considered equally applicable to the powers and duties of single judges of the provincial courts, and to decisions passed by them, under the present regulation.

Powers of single judges of the provincial courts sitting upon appeals in succession, and concurring in opinion.

VIII. In modification of the third clause of Section 2, Regulation XIII. 1810, requiring the sitting of two judges to reverse or alter a decision or order appealed to a provincial court, and of such part of any other regulation in force, as directs that decrees are to be signed by the judges passing the same; it is hereby provided, that when a single judge of a provincial court, trying a case in appeal from a *zillah* or city judge, assistant judge, or register, shall be of opinion, that the decision appealed from ought to be reversed, or altered, and shall record his sentiments to that effect; and another judge of the provincial court, sitting afterwards upon the same appeal, shall concur in the opinion so recorded, it shall be competent to the second judge to pass the decree, or final order, in conformity thereto, and to cause the same to be carried into execution, in the mode prescribed by the regulations; without waiting for a sitting of both judges, when circumstances may not conveniently admit of it. In such cases, the decree or order shall be signed by the judge present at the final sitting, and the signature of the judge who first sat shall not be considered requisite; but his opinion, as recorded by him, shall be recited in the decree or final order, and in the copies of it delivered to the parties.

Decree or order may be signed by the judge present at the final sitting in such cases.

Parts of the regulations in force, which give a casting *vote* to the senior judges of the provincial courts repealed.

IX. *First.* Such parts of the regulations in force as provide, in cases of a difference of opinion between two judges of the provincial courts of appeal, that the senior judge shall have a casting vote, in affirming, reversing, or altering the decree or order of a *zillah* or city court, when the case may be further appealable to the court of Sudder Dewanny Adawlut, or a casting voice in affirming the decree or order of a *zillah* or city court, but not in reversing or altering it when the division of the provincial court may be final, are hereby rescinded.

Rule to be observed when a difference of opinion may arise between two judges of a provincial court trying an appeal.

Second. Whenever two judges of a provincial court may try an appeal from the decision or order of a judge, assistant judge, or register, of a *zillah* or city court, and a difference of opinion may arise between such judges, the determination of the provincial court shall be suspended until the opinion of a third judge of that court can be taken, when the decision shall be passed according to the majority of voices.

The same rule to be observed when two judges, trying an original suit, may differ in opinion.

Third. The rules stated in the above clause shall also be observed in all civil suits, tried by the provincial courts in the first instance, wherein a difference of opinion may arise between two of the judges of those courts, sitting on the trial of such suits.

The same principle to be observed in all other business before two judges of a provincial court, when a difference of opinion may arise.

Fourth. The same principle shall be observed in all other business of a general or miscellaneous nature before two judges of a provincial court, when a difference of opinion may arise between them; and in general, when there may not be a third judge present at the station, the decision of the question shall be postponed for the attendance of another judge. But in cases not involving any matter of judicial cognizance, if a third judge be within the division, though not at the *sudder* station, and the business appear to require an early

In what cases the papers may be sent to a

third judge within the division, but not at the *sudder* station, for his opinion.

decision, the papers relative thereto may be sent to him for his written opinion, and on receipt thereof, a determination shall be passed according to the majority of voices.

Rule to be observed when a difference of opinion may take place between four judges of a provincial court, and the number of voices may be equal.

Fifth. If in any instance a difference of opinion should take place in questions before four judges of a provincial court, and the number of voices be equal, the first judge, concurring with any one of the other judges, shall possess a casting vote, and the resolution shall be passed accordingly.

What powers may be exercised by single judges of the provincial courts, with respect to the appointment and removal of ministerial native officers of the *zillah* and city courts.

X. *First.* By Section 4, Regulation I. 1807, and Section 4, Regulation XIII. 1810, single judges holding sittings of the provincial courts of appeal under the provisions of those regulations, are empowered to perform all miscellaneous duties appertaining to the provincial courts, and to proceed as two or more judges of those courts are empowered to proceed, except when they may be of opinion, that the order of a *zillah* or city court, or the order of another judge of the provincial court, should be reversed, or altered. It having been doubted whether the powers thus vested in a single judge, include the appointment and the removal of the ministerial native officers of the *zillah* or city civil courts, whose appointment and removal, on reports from the *zillah* and city judges, are or may be vested in the provincial courts, it is hereby declared that single judges of the provincial courts, holding sittings of those courts, under the provisions contained in Regulation XIII. 1810, or the present regulation, are empowered to proceed in like manner as two or more judges of the provincial courts are empowered to proceed under Section 7, Regulation VIII. 1809, except when they may differ in opinion from the *zillah* or city judge, respecting the appointment or removal of any native officer of the *zillah* or city courts; in which case the question shall be brought before two or more judges of the court.

And of ministerial native officers of the provincial courts.

Second. A single judge holding the sittings of the provincial court shall be competent to suspend any ministerial native officer of that court, but shall not be competent to pass any final order or decision regarding the removal or appointment of any native ministerial officer of a provincial court; all questions which may arise respecting the appointment or removal of such officers shall be brought before two or more judges of the court, and shall be decided, in cases of a difference of opinion, in conformity with Section 9. of this regulation.

What powers vested in single judges of the courts of circuit, and their law officers, holding the *zillah* and city jail deliveries.

XI. Under the existing regulations, the jail deliveries of the several *zillahs* and cities are held before a single judge of the court of circuit, and a law officer of that court. The judges holding such jail deliveries, in the trial of prisoners committed or held to bail by the magistrate to be tried before the courts of circuit, as prescribed by the regulations, possess in conjunction with their law officers the full powers which are vested in the courts of circuit for the trial and punishment of criminal offences. But the powers of single judges of the courts of circuit, at the *sudder* stations, have not been defined by any regulation. The provisions contained in the following sections are therefore enacted for this purpose.

Provisions in following sections enacted to define powers of single judges of the courts of circuit at the *sudder* station.

For what cases a single judge may hold the sitting of a court of circuit at the *sudder* station.

And what duties may be performed by him, subject to the following provisions.

XII. *First.* Whenever, from the absence, or indisposition, of one or more of the judges of a court of circuit, or from one or more of the judges being occupied with the business of the civil court, or from vacancies, or any other cause, the sitting of a court of circuit, at the *sudder* station, cannot be held before two judges, it shall be competent to a single judge to hold the sitting of the court; to call for the proceedings of a *zillah* or city magistrate, a joint magistrate, or an assistant magistrate, in cases, in which there may appear to be sufficient cause for requiring such proceedings; to execute all sentences and orders received from the court of Nizamut Adawlut; and to pass orders in conformity with the regulations on all matters cognizable by the courts of circuit at the *sudder* station, subject to the following provisions.

Not to reverse or alter the decision or order of a magistrate, or a joint or assistant magistrate without the concurrence of another judge.

Second. In all cases wherein a decision, or order, may have been passed by a *zillah* or city magistrate, or by a joint or assistant magistrate, it shall not be competent to a single judge of a court of circuit sitting at the *sudder* station to reverse, or alter such decision, or order, without the concurrence of another judge of the court of circuit.

Not to reverse or alter a former decision or order of one or more judges of a court of circuit.

Third. In cases in which a decision or order may have been already passed by one or more judges of a court of circuit, it shall not be competent to a single judge to reverse or alter the decision or order so passed.

Fourth. No judge of circuit shall take cognizance of appeals to the court of circuit against decisions, or orders, passed by himself in the capacity of magistrate, joint magistrate, or assistant magistrate; or in any other capacity.

Not to take cognizance of appeals against decisions or orders passed by himself.

Fifth. In cases referred to the court of circuit, at the *sudder* station, by the judge of circuit holding a jail delivery, in pursuance of Section 22, Regulation IX. 1807, or any other regulation directing or authorizing a reference to the court of circuit at the *sudder* station, by the judge of circuit employed upon the duties of the *zillah* and city jail deliveries, if there be only one judge at the *sudder* station, or if the case shall come before a single judge, under the provision made by the first clause of this section, and such judge shall concur in opinion with the judge making the reference, he shall be competent to pass a final order in conformity with their joint opinion and the regulations. But if the judge at the *sudder* station, should differ in opinion from the judge making the reference, in such cases he shall record his opinion, and the question shall lie over until the opinion of a third judge can be obtained.

Rule to be observed on references from a judge of circuit holding a jail delivery, when a single judge at the *sudder* station may concur with or differ from the judge making the reference.

Sixth. The rule contained in Section 10. of this regulation, with respect to the appointment and removal of the ministerial native officers of the provincial courts of appeal and of the *zillah* and city civil courts, shall be considered applicable to, and observed by single judges of the courts of circuit, holding the sittings of those courts, at the *sudder* stations under the present section, with respect to the appointment and removal of ministerial native officers of the courts of circuit; or of the *zillah* and city magistrates, joint magistrates, or assistant magistrates, or native officers of the police, in cases, in which the appointment or removal of such officers is subject to the confirmation of the courts of circuit.

Rule in Section 10. of this regulation, applicable to single judges of courts of circuit, respecting appointment and removal of ministerial native officers.

XIII. Decisions and orders of a single judge of a court of circuit, holding a sitting of the court at the *sudder* station, in pursuance of clause first, of the preceding section, shall, if passed in conformity with the several provisions of that section, and the general regulations, have the same force and effect, as if they had been passed by the court of circuit collectively.

Decisions and orders of a single judge of a court of circuit passed in conformity with the preceding section, to have the same force as if passed by the court collectively.

XIV. In all cases of a difference of opinion between two or more judges of a court of circuit, they shall be guided by the principles of the rules prescribed for the provincial courts of appeal in Section 9. of this regulation.

By what rules the judges of the courts of circuit to be guided in cases of a difference of opinion.

XV. It having been doubted whether a judge of circuit holding a *zillah* or city jail delivery can upon misconduct appearing before him, in the course of a criminal trial or otherwise, order the dismissal of a police officer, or other native officer, it is hereby declared that a judge of circuit, holding a *zillah* or city jail delivery, may order the dismissal of any native officer convicted before him of a criminal offence, which under any express provision in the regulations is punishable by dismission from office; and on the same being notified to the magistrate, or other European public officer, under whom the native officer so dismissed may have been employed, it shall be the duty of the magistrate, or other European officer, to take measures for the appointment of a successor to the vacant office, in conformity with the regulations. In all other cases, if the removal of a native officer appear necessary to a judge of circuit holding a jail delivery, he shall communicate the same, with the grounds of his opinion, to the magistrate, or other European public officer under whom such native officer may be employed; and the magistrate, or other European officer, receiving such communication, shall either conform thereto, and proceed to fill the vacant office in the mode prescribed by the regulations; or shall report the case to the proper court, Board, or other authority, vested with the final power of removing the native officer referred to, under the provisions of Regulation VIII. 1809, or any other regulation in force.

In what cases judge of circuit holding a jail delivery may order the dismission of a native officer.

Judge of circuit how to proceed in all other cases, when the removal of a native officer may appear to him necessary.

And what to be done by the magistrate or other European public officer, on receiving the prescribed communication from a judge of circuit.

XVI. The modification of Sections 2, Regulation XIII. 1810, contained in Sections 6 and 8. of this regulation, are hereby extended, and declared applicable, to the provisions of Section 6, Regulation XIII. 1810; with respect to a single judge of the court of Sudder Dewanny Adawlut holding the sittings of that court.

Provisions in Sections 2. and 4. of this regulation, declared applicable to single judges holding sittings of the court of Sudder Dewanny Adawlut.

XVII. The rule for separate sittings before single judges of the court of Nizamut Adawlut contained in Section 6, Regulation VIII. 1808; though principally intended for the speedy determination of criminal trials, under reference to that court, is hereby declared to

Rule for separate sittings before single judges

of the Nizamut Adawlut declared to authorize sittings on miscellaneous business, as well as upon criminal trials.

A single judge not authorized to pass a final order altering or reversing the decision or order of certain other authorities.

to authorize a sitting of the court, before a single judge (when two or more judges may not be able to attend) upon miscellaneous references to or from the courts of circuit and magistrates, upon petitions receivable by the court of Nizamut Adawlut; and generally upon all matters appertaining to the cognizance of that court under the regulations in force. But in every case wherein a single judge of the Nizamut Adawlut may be of opinion that the decision or order of a court of circuit, magistrate, or other public officer, should be reversed or altered, he is not to pass a final order, without the concurrence of one or more of the other judges of the court. Nor is he, in any case, by his single authority to reverse or alter a former decision or order of one or more of the judges of the court.

Provision in case of a difference of opinion, when four judges of the Sudder Dewanny Adawlut or of the Nizamut Adawlut may be present at a sitting, and the number of voices may be equal.

XVIII. It is already provided by the regulations, with respect to the court of Sudder Dewanny and Nizamut Adawlut, that in the event of any difference of opinion when three judges may be present, the voices of the majority shall determine the question; or if only two judges be present, that the decision upon the question be postponed for the attendance of a third judge. It is hereby further provided, that if four judges of the court of Sudder Dewanny Adawlut, or the court of Nizamut Adawlut be present at a sitting of either court, when a difference of opinion may take place, and the number of voices be equal, the chief judge, concurring with any one of the other judges, shall possess a casting vote, and the question shall be determined accordingly.

A. D. 1793. REGULATION V.

A REGULATION *for establishing four Provincial Courts of Appeal for hearing Appeals from Decisions passed in the several Zillah and the three City Courts, and defining their Powers and Duties, and prescribing Rules for receiving and deciding upon Appeals, and other causes of which they are declared to have Cognizance.*—PASSED *by the Governor General in Council on the* 1*st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

PARTIES in suits instituted in the late courts of *mofussil dewanny adawlut*, who considered themselves aggrieved by decisions of those courts, had no tribunal to which they could apply for redress but the Sudder Dewanny Adawlut, or court of appeal established at Calcutta. Individuals residing in the interior parts of the country, whose circumstances would not admit of their entertaining a *vakeel* at a heavy and an unlimited expence for the special purpose of prosecuting an appeal, in addition to the authorized charges and other expences which necessarily attended the carrying on a law process in a court situated at so great a distance, and whose occupations prevented their repairing to Calcutta in person, were consequently often under the necessity of submitting to decisions by which they deemed themselves injured, even in suits that were appealable. In addition to this evil arising from the local situation of the Sudder Dewanny Adawlut, the court being composed of the Governor General and the members of the Supreme Council, it became necessary, notwithstanding the then limited jurisdiction of the *mofussil dewanny* courts, to restrict appeals to decisions respecting property exceeding a certain and very considerable amount or value, to prevent a greater number of appeals being preferred than the general administration of the public affairs would allow of their hearing. The decisions of the courts of *mofussil dewanny adawlut* were accordingly made final in suits for money, or for personal property, in which the sum, or the value of the thing decreed, did not amount to more than one thousand sicca rupees, and for landed estates paying an annual revenue to Government not exceeding one thousand sicca rupees, and for lands exempted from the payment of public revenue, the annual produce of which was not above one hundred sicca rupees. The principal part of the suits which were instituted in the courts, not being appealable under the above limitations, the greater proportion of the suitors, consisting of claimants to landed property, traders, manufacturers, and other persons chiefly of the lower and most industrious orders of the people, had consequently no remedy against unjust or erroneous decisions. In suits regarding arrears of rent or revenue, between the various descriptions of proprietors and farmers of land, and their dependant *talookdars*, under-farmers, and *ryots*, and others concerned in the collection of the rents and revenues arising from land, and in matters between Government and proprietors and farmers of land respecting the public revenue, (which were excluded from the jurisdiction of the courts of *dewanny adawlut*, and cognizable by the collectors in the late courts of *maal adawlut* or revenue courts,) obstacles equally great existed to the prosecution of the appeal, which lay in such cases to the Board of Revenue, and

the Governor General in Council, in addition to the further impediments occasioned by the irregularity in the process, and the defects in the constitution of the revenue courts. The jurisdiction of the courts of *dewanny adawlut* established in the several *zillahs*, and the cities of Patna, Dacca, and Moorshedabad, being now extended not only to the causes which were cognizable in the courts of *maal adawlut*, but to civil suits of all descriptions between individuals, and, under certain restrictions, between Government and its subjects; and it being essential to the prosperity of the country, that all persons, especially the cultivators of the soil, the traders, and manufacturers, and the other classes of the lower and most industrious orders of the community in the different parts of the provinces, who may be dissatisfied with the decisions of those courts, should have an appeal to a higher court to which they can have ready access; and that this court should be so constituted, that they may look up to it with confidence for speedy redress against unjust or erroneous decisions; the Governor General in Council has enacted as follows.

Four provincial courts of appeal established. Places at which the four courts are to be established, and their respective denominations.

Three judges to be appointed to each court.

Their official appellations.

II. Four courts of appeal shall be established, one in the vicinity of Calcutta, one at the city of Patna, one at the city of Dacca, and one at the city of Moorshedabad, to be denominated respectively, the provincial court of appeal for the division of Calcutta, Patna, Dacca, and Moorshedabad. Each court is to be superintended by three judges, who are to be styled, the first, second, and third judge of the court to which they may be appointed. Every judge, previous to entering upon the execution of the duties of his office, is to take and subscribe the following oath before the Governor General in Council, or any person whom he may commission to administer it. "I A. B. appointed judge of the provincial court of appeal for the division of ————, solemnly swear, that I will administer justice conformably to the regulations that have been, or may be, passed by the Governor General in Council, according to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any present or *nuzzer*, either in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the court of appeal of which I am appointed a judge; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or *nuzzer*, in money or effects of any kind, from any party or person whomsoever, on account of any suit, to be instituted, or which may be depending, or have been decided in the court; that I will render a true and faithful account of all sums of money that may be paid into the court, or disbursed from it; that I will not be concerned, directly or indirectly, in the purchase of goods or commodities in the British dominions in Bengal for the purpose of remitting money to Europe, or in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive. So HELP ME GOD."

Oath to be taken by the judges.

Jurisdiction of the provincial courts of appeal.

III. The jurisdiction of the provincial courts of appeal, is to extend over the cities and *zillahs* hereafter specified.

Division of Patna.

Jurisdiction of the provincial court of appeal for the division of Patna.

The city of Patna, and the *zillahs* of Behar proper, Shahabad, Sarun, Tirhoot, and Ramgur.

Division of Dacca.

Jurisdiction of the provincial court of appeal for the division of Dacca.

The city of Dacca, and the *zillahs* of Sylhet, Mymensing, Dacca Jelalpore, Tipperah, and Chittagong.

Division of Moorshedabad.

Jurisdiction of the provincial court of appeal for the division of Moorshedabad.

The city of Moorshedabad, and the *zillahs* of Moorshedabad, Boglepore, Rajeshahy, Purneah, Dinagepore, Rungpore, and the districts under the superintendence of the commissioner at Cooch Behar, which are not included in the independent territories of the Rajah of Cooch Behar.

Division of Calcutta.

Jurisdiction of the provincial court of appeal for the division of Calcutta.

The *zillahs* of Nuddeah, Jessore, Beerbhoom, Burdwan, Midnapore, including the salt districts to the west of the Hoogly river, the Twenty-four Purgunnahs, and the *zillah* of Calcutta,

cutta, consisting of the districts under the collector of Calcutta, which are not included in the jurisdiction of the Supreme Court of Judicature.

Where the provincial courts of appeal are to be held.

IV. The provincial courts of appeal for the divisions of Patna, Dacca, and Moorshedabad, are to at held respectively at the cities of Patna, Dacca, and Moorshedabad; and the provincial court of appeal for the division of Calcutta, in the vicinity of Calcutta. The courts are to be held in a large and convenient room three days in every week, (excepting for the period during which the judges may be employed in making the half yearly jail deliveries in their capacity of judges of circuit, under Regulation IX. 1793,) or oftener if the business shall require it, and no rule, order, proceeding, or decree, is to be made but on court days, and in open court.

Courts to be held in a large room, three days in each week, or oftener if necessary.

No decree, order, &c. to be made, but on court days, and in open court.

Seals of the court.

V. The provincial courts of appeal for the divisions of Calcutta, Moorshedabad, and Dacca, are to use a circular seal of two inches in diameter, with an inscription to the undermentioned effect, in the Persian and Bengal characters, and languages. The provincial court of appeal for the division of Patna, is to use a seal of the same shape and dimensions, with a similar inscription in the Persian character and language, and the Hindoostanee language and Nagree character. "The seal of the provincial court of appeal for the division of——."

Provincial courts to try cases referred to them by the Sudder Dewanny Adawlut or the Governor General in Council, and to order their decree to be enforced by the *zillah* or city court.

VI. The provincial courts of appeal are empowered to try and determine in the first instance, any suit or complaint, or any matter whatever of a civil nature, which may be transmitted to them for that purpose by the Governor General in Council, or by the Sudder Dewanny Adawlut, and to order the decree which they may pass to be executed by the judge of the proper *zillah* or city court, in the same manner as the decrees of the *zillah* and city courts are directed to be enforced.

Cases in which the provincial courts of appeal are empowered to refer original suits to the *zillah* or city courts to be tried and determined.

VII. The provincial courts of appeal are empowered to receive any original suit, or complaint, which may be cognizable in any *zillah* or city court within their respective jurisdictions, and to command the judge of such *zillah* or city court, by a precept under the seal of the court and attested by the register, to receive the suit or complaint, and to proceed to hear and determine it, provided proof shall be previously made to their satisfaction that the judge, refused or omitted to receive or proceed in it. If the plaintiff shall refuse or neglect to proceed in the suit or complaint, for the space of six weeks after the order of the provincial court of appeal may be received by the *zillah* or city court, the judge is authorized to dismiss it, notwithstanding the order of the provincial court of appeal. In such cases, the judge within one week after the dismission of the suit, is to certify to the provincial court of appeal, under his hand and the seal of the court, that the suit or complaint has been dismissed, and the grounds of the dismission.

Suit or complaint to be dismissed, if the party preferring it shall omit or refuse to proceed in it for six weeks.

Judge to notify the dismission of the suit to the provincial court.

Cases in which the provincial courts may receive petitions respecting suits or matters depending or which may have been decided in any zillah *or city court.*

Provincial courts how to proceed with such petitions.

VIII. The provincial courts are empowered to receive any petitions respecting suits or matters that may be depending, or have been decided, in any* zillah *or city court within their respective jurisdictions, and provided it shall be proved to their satisfaction that the petition was presented to the judge, and that he refused or omitted to receive it, or to comply with it, and the prayer of the petition shall appear to the court just and reasonable, and consistent with the regulations, and that it was the duty of the judge to have complied with it, the court are empowered to issue a precept under the seal of the court, and attested by the register, commanding the judge to receive the petition, and to proceed respecting it in such manner as they may think proper to direct, and return by a limited period what he has done in consequence of such command.*

Courts of appeal not to correspond with parties in suits, or any person respecting matters cognizable in the court.

IX. The provincial courts of appeal are prohibited corresponding by letter with parties in suits, or process, or matters depending before them, or coming within their cognizance. If a party in a suit, or any person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he is either to appear in the court in person, and represent the matter in writing, or make the representation in writing, through an authorized *vakeel*. The court are to pass whatever order upon the representation may appear to them proper, consistently with the regulations, and to cause a copy of the order to be delivered to the person making the representation, or to his *vakeel*, under the seal of the court, and attested by the register. The provincial courts of appeal are also prohibited corresponding by letter with

Provincial courts of appeal prohibited correspond-

* This section is rescinded by Section 5, Regulation II. 1798.

ing by letter with the judges of the *zillah* and city courts.

the judges of the *zillah* or city courts, respecting any cause or matter before them, or upon any matters whatever on which they may not be especially empowered so to correspond. When they shall have occasion to issue an order to the judge of any *zillah* or city court, or require information from him on the subject of any suit or matter before them, the court are to issue a precept under their seal and the signature of the register, commanding the judge to execute the order, or requiring him to furnish the information; and the judge to whom the precept may be directed is to perform the exigence of it, or return good and sufficient reason why he has not done it.

Provincial courts of appeal empowered to receive charges of corruption which may be preferred to them against the judges of the zillah *or city courts.*

Rules to be observed in receiving such charges.

X. If any person shall charge the judge of a* zillah *or city court, before the provincial court of appeal of the division, with having been guilty of corruption in opposition to his oath, the provincial court is to receive the charge and forward it to the Sudder Dewanny Adawlut, provided the complainant shall previously make oath to the truth of the charge, (or subscribe the required declaration, if he shall be of the description of persons whom the court is empowered to exempt from taking oaths,) and give security in whatever sum the court may judge proper, to appear and prosecute the charge when required. Unless the complainant shall take the oath, or subscribe the abovementioned declaration, and give the required security, the court is not to receive the charge.*

Provincial courts to report to the Sudder Dewanny Adawlut all cases of misconduct or neglect in the judges not expressly provided for by this regulation.

In all other cases not expressly provided for in this regulation, in which it shall appear to the provincial courts of appeal, that the judges of the *zillah* or city courts have been guilty of negligence or misconduct in the discharge of their duty, they are to report the circumstances to the Sudder Dewanny Adawlut.

By what rules the provincial courts are to proceed in cases referred to them for trial in the first instance, and in appeals preferred to them from the decisions of the *zillah* and city courts.

XI. In suits or complaints which may be transmitted by the Governor General in Council, or the Sudder Dewanny Adawlut, to be tried and determined by the provincial courts of appeal, and also in appeals from the decisions of the *zillah* and city courts, (except as to hearing witnesses and receiving evidence,) the provincial courts are to proceed in the same manner, and with the like powers and authority, and subject to the same restrictions, limitations, and exceptions, as are prescribed to the *zillah* and city courts.

Persons deeming themselves aggrieved by the decision of any *zillah* or city court, at liberty to appeal to the provincial court of appeal.

What the petition of appeal is to contain.

XII. Any person who may consider himself aggrieved by the decision of a *zillah* or city court, is permitted to appeal from it, by petition to the court of appeal within the jurisdiction of which the court wherein the decision shall have been passed may be situated. The petition is to state, (respect being had to the matter decreed,) the annual produce of the lands, whether *lakheraje* or *malguzaree*, the sum of money, or the value of the property which may be decreed, the name of the person in whose favour the decree may be given, the court in which it may have been passed when it was made, what was decreed by it, and whether the decree has been executed; and is to assign some cause, special or general, for appealing from the decision. The petition is to be accompanied with an attested copy of the decree of the *zillah* or city court, or by a written declaration signed by the party desirous to appeal, or his *vakeel*, that ten days after the decision was passed, he applied to the judge of the court for a copy of the decree, and was denied it. The petition is to be presented to the court in which the decree appealed against may have been passed, or to the provincial court of appeal of the division in which such court may be situated, within three calender months after the day on which the decree may be given. But it shall nevertheless be permitted to such person, to prefer his petition of appeal to the provincial court of appeal after the expiration of the three months, and the court is authorized to admit the appeal, provided the petitioner can show just and reasonable cause to their satisfaction for not having preferred it within the limited period. But whenever a provincial court of appeal shall admit an appeal which may be preferred to them after the limited time, they are to enter upon the record of the trial, their reasons at large for admitting the appeal. If the petition of appeal shall be against a decree whereby the right of possession of any *zemindaree*, independent or dependant *talook*, or any land or house, or other real property, shall be decreed to the plaintiff, all proceedings are to be immediately suspended, and no execution is to be had, or possession given under the decree, until the appeal shall have been finally determined in the provincial court of appeal, provided the party against whom the decree may be passed shall enter into good and sufficient security, in a sum equal to one year's amount of the annual produce of the *zemindaree*,

Petition of appeal to be accompanied with a copy of the decree, or a written declaration from the party or his *vakeel*, that he applied for a copy of the decree within ten days, and was denied it.

Period limited for preferring appeals.

Cases in which the provincial court may admit appeals after the limited time.

Court to record their reasons for admitting an appeal after the limited time.

Execution of decrees for real property passed in favour of the plaintiff to be suspended, upon the appellant giving the security herein specified.

* Rescinded by Section 2, Regulation X. of 1806.

talook, or other land, or house, or real property, which shall have been decreed, to abide by, and perform, whatever order may be passed in the provincial court of appeal. But if the party appealing shall neglect or refuse to enter into such security, on or before the court day next after the day on which the appeal may be preferred, the court by which the decision may have been passed, is to order the decree to be executed. In all other cases, the *zillah* or city court in which the decree may have been passed, may order the decree appealed against, either to be carried into execution, or direct that sufficient security be given by the party against whom the decree may have been passed, in an amount equal to the sum of money, or the value of the thing decreed, for the performance of the decree. If the *zillah* or city court shall order the decree to be executed, security is to be taken from the party in whose favour the decree may be passed, in a sum of money equal to the amount or value of the thing decreed, for the due performance of such order or decree, as may be made in the provincial court of appeal. * *In all cases, however, the party appealing is to give good and sufficient security in such sum as to the* zillah *or city court may seem proper, upon a consideration of the amount or value of the property or thing decreed, (provided that the security so to be taken be not in any case for a greater sum than five hundred rupees,) for the payment of the costs that the provincial court of appeal may judge it proper to award, and for the performance of the decree which it may pass.* When the securities hereby required shall have been entered into, the judge of the court is immediately to endorse on the petition in his own handwriting the day of the month and year in which it was presented, and sign it with his name, and cause to be written in the margin of the record immediately opposite to the decree of the court, the word " appealed," and transmit the petition to the provincial court of appeal. The court is at the same time to direct notice in writing to be given to the appellant, that within fifteen days, the proceedings held in the cause appealed, will be certified to the provincial court of appeal; and that if he shall not proceed in the appeal within six weeks after it shall have been filed in the provincial court, his appeal will be dismissed, unless he shall show reasonable cause to the satisfaction of the provincial court for not having proceeded in it.

Such decrees to be executed, upon the appellant failing to give the required security.

In all other cases, the court may either execute the decree appealed against, or take security from the appellant for the performance of it.

If the court shall order the decree to be executed, security to be taken from the party in whose favour it may be made for the performance of the decree of the provincial court.

In all cases, however, the appellant to give the security herein required.

When the appellants have entered into the securities required, the judge is to make the endorsement herein required on the petition; to transmit it to the provincial court of appeal; to notify to the appellant that the proceedings will be certified to the provincial court in fifteen days; and that if he shall not proceed in the appeal in six weeks from the date of its being filed in the provincial court, it will be dismissed.

XIII. The judge of the *zillah* or city court, within fifteen days after the receipt of the appeal, is to certify under his hand and the seal of the court, to the register of the provincial court of appeal, the record duly made up and authenticated, including the original complaint, answer, replication, and rejoinder of the parties; the original depositions, exhibits, and every original paper read in the cause. Previous to transmitting the abovementioned papers to the provincial court of appeal, he is to cause true and faithful copies of all the originals, authenticated by the *serishtadar*, or the head native officer of the court, to be made out and deposited in the *zillah* or city court in lieu of the originals. The copies are to be deemed records of the court, and are to be received in evidence in any other *zillah* or city court. In cases where any original deposition, or other original proceedings or matter whatsoever, shall have been previously entered in any *zillah* or city court, in any book, which may likewise contain either proceedings in other distinct causes, or any other matter, so that such original papers cannot be transmitted to the provincial court of appeal without the other proceedings or matters, the judge of the *zillah* or city court, within the time, and in the manner before directed, is to certify a true and authentic copy of such original papers, and that the original of each copy transmitted, is so entered in such book. But he is nevertheless to transmit the original complaint, the original answer, or other separate pleadings of the parties, and the original exhibits which shall have been delivered in, or produced by the parties, and read in the course of the cause before the court, if they be forthcoming, in the manner before required. In cases where any original paper shall have been mislaid or lost, and a copy of it shall have been entered in any book or proceedings, the copy is to be deemed the original, and the judge is to transmit a copy of it to the provincial court of appeal, and in like manner to certify it, and that the original after due search cannot be found.

Record, including original papers in the cause appealed, to be transmitted to the register to the provincial court in fifteen days after the receipt of the appeal.

Copies of all the original papers transmitted to be attested by the *serishtadar*, and deposited amongst the records of the court.

Copies to be deemed records of court, and to be received in evidence.

Copies of original papers to be sent to the provincial court, where the originals cannot be sent for the reasons herein specified.

Recorded copies of original papers not forthcoming, to be deemed the originals, and copies of them to be forwarded and certified as herein required.

XIV. If a petition of appeal shall be presented in the first instance to the provincial court of appeal against any degree of a *zillah* or city court, whereby the right to any *zemindaree*, independent or dependant *talook*, or any land or house or other real property shall have been decreed to the plaintiff in the original cause, and no execution shall have taken place, or possession been given under the decree of the *zillah* or city court,

Cases in which the provincial courts are empowered to order the *zillah* or city courts to suspend the execution of decrees, appeals from which may be presented to them in the first instance.

* Rescinded by Section 9, Regulation II. 1798.

provided the party against whom the decree may have been passed, shall have entered into good and sufficient security in a sum equal to one year's amount of the annual produce of the *zemindaree*, *talook*, land, or house, or other real property, which shall have been so decreed, to abide by and perform whatever order may be passed in the provincial court of appeal, the court is to issue an order to the judge of the *zillah* or city court the decree of which shall be appealed against, to suspend the execution of it until the appeal shall have been finally determined. And in every case where a petition of appeal shall be preferred in the first instance immediately to the provincial court of appeal, and no security shall have been taken by the *zillah* or city court, the provincial court is not to proceed in the appeal, until the party appealing shall have entered into such security as he would have been required to have given had he preferred his petition of appeal to the *zillah* or city court.

All process of the provincial courts of appeal (with the exception herein specified) to be issued through the *zillah* and city courts.

XV. All process, both to parties and witnesses, and every rule, or order, for the execution of a decree, or final order, and every other order whatever, which may issue from the provincial courts of appeal, whether originating with the provincial courts, or issued pursuant to orders from the Sudder Dewanny Adawlut, is to be written or printed in the Persian and Bengal languages, in Bengal and Orissa, and in the Persian language, and the Hindoostanee language and Nagree character, in Behar, and sealed with the seal of the provincial court, and signed by the register. All such process, rules, and orders, which are to be served or executed on any parties, witnesses, or persons, (exclusive of the parties, *vakeels*, or persons, in actual attendance on the court,) are to be directed to the judge of the *zillah* or city court in which the cause of action shall originally have arisen, or in whose jurisdiction the lands may be situated, or the parties may be, or reside. Every such process, rule, and order, is to limit a certain time in which it is to be served, executed, and returned to the provincial court of appeal. If the judge of a *zillah* or city court, to whom any process, rule, or order whatever may be directed, shall wilfully disobey, or neglect to perform the commands contained in it, or make a false return, the provincial court are positively enjoined to report immediately such disobedience, neglect, or false return, to the Sudder Dewanny Adawlut, and the judge so offending shall be liable to be suspended from his office by the Sudder Dewanny Adawlut. If the Sudder Dewanny Adawlut should suspend the judge, they are to notify the suspension to the Governor General in Council within ten days after it may take place, together with the cause of it; and certify under the seal of the court, the proceedings, depositions, and exhibits, and all other matters which may be necessary to enable the Governor General in Council to pass a determination upon the suspension, and to transmit to him, on his requisition, any further papers and proceedings respecting the cause which he may deem necessary for his information.

Provincial courts of appeal enjoined to acquaint the Sudder Dewanny Adawlut, whenever the *zillah* or city courts refuse or omit to obey or to conform to their process or requisitions.

Judges of the *zillah* and city courts, liable to be suspended by the Sudder Dewanny Adawlut for such offences. Sudder Dewanny Adawlut to report to the Governor General in Council the suspension of judges under this article within ten days.

XVI. In all cases in which process either to a party or witness, and all process whatever, and every rule, or order, for the execution of any decree, or final order, or any order relating to a cause depending in a provincial court of appeal, which may be directed by such court to the judge of a *zillah* or city court, the judge to whom the process may be directed is to execute the order contained in the process, rule, or order, and return it so executed within the time limited, or return to the provincial court good and sufficient reason why it has not been served or executed. When any process, rule, decree, or order for the execution of any decree, or final order, or any order whatever, shall be transmitted by the provincial court of appeal to the judge of a *zillah* or city court to be served or executed, the return to such process, rule, order, or decree, is to be made by the judge of the *zillah* or city court, either by endorsement on the process, rule, order, or decree, or to be written on a paper firmly annexed to it; and, if the return be made in the last mentioned manner, there is to be an endorsement on the process, rule, order, or decree, referring the provincial court of appeal to the return contained on such annexed paper; and the judge is to cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited amongst the records of his court. And in all cases in which the provincial court of appeal shall transmit any order or process to be served or executed by the judge of a *zillah* or city court against a party in a cause, and the party on whom it is to be served or executed, is not, after diligent search, to be found, or shall have absconded or shut himself up in his own or any house or building, or retired to any place so that the process cannot be served upon him, the judge to whom the process is directed is to cause to be stuck up in

Process of the provincial courts, how to be served by the judges of the *zillah* and city courts.

To return the process executed, or reasons why it has not been executed.

Form and manner in which the return is to be made.

Judge to cause a copy of the process and return to be deposited amongst the records of the court.

Judge how to proceed in case any such process cannot be served upon the party, in consequence of his absconding or otherwise avoiding it.

some conspicuous part of the room in which the court may be held, a writing, (in the Persian and Bengal languages, if it be in Bengal or Orissa, and in the Persian language, and the Hindoostanee language and Nagree character, if it be in Behar,) containing a copy of the order or process, and a notice, that if the party shall not obey the exigence of it within the time limited, the provincial court of appeal will, without further notice, process, or order, proceed *ex parte* to hear, try, and determine the cause to which such process or order may relate; and the judge is likewise to cause a copy of such writing to be stuck up with all practicable dispatch on the outer door of the house in which the party may have usually dwelt, or in some conspicuous place in the village in which he may have usually resided, and to return to the provincial court of appeal in the manner before directed, how he has executed the process.

Judge to fix up a writing in his court-room and at the place of residence of the party.

What the writing is to contain.

XVII. If the judge of a *zillah* or city court, to whom any process, rule, or order of a provincial court of appeal may be transmitted, that it may be served or executed on any party, shall return that the party has absconded, or shut himself up in his own, or any house, or building, or retired to any place so that the process could not be served upon him, or was not after diligent search to be found, and that he had caused the writing to be fixed up, in the places and manner directed, and the party shall not appear, and obey the exigence of the process, rule, or order, the provincial court is to proceed *ex parte* to try and determine the cause in which the process, rule, or order, shall have issued, in the same manner as if the party had appeared and obeyed the exigence of the process.

Provincial courts to proceed *ex parte*, when the *zillah* or city courts report that a party has absconded or was not to be found, after the forms herein directed have been observed.

XVIII. The provincial courts of appeal are empowered in cases of appeals, in which it shall appear to them that the original suit has not been sufficiently investigated in the *zillah* or city court, or for any other cause that may be deemed reasonable by the provincial court, either to receive such further evidence as they may think necessary for the just determination of the suit, and to give judgment upon it; or, to refer the suit back to the *zillah* or city court in which it originated, accompanied by such special directions to the judge with regard to the new evidence he is to receive respecting it, as may be deemed by the court most conducive to justice, and the convenience of the parties and witnesses. But in every case in which the provincial courts may exercise the power above vested in them by this section, they are to enter upon the record of the trial their reasons for having exercised it. In cases in which the court may judge it proper to receive such further evidence themselves, they are empowered, according as they may deem most conducive to justice, (respect being had to the nature of the cause, and the evidence,) either to examine the witnesses to be produced, *vivâ voce*, in open court, causing the witnesses to be first sworn, and their depositions to be reduced into writing, and signed by the deponents respectively; or, to authorize their register to swear the witnesses and take their depositions, and to cause the deponents to sign them, and to authenticate them with his signature. The register in such case, is to examine the witnesses in the presence of both parties or their *vakeels*, who are to be at liberty to put any questions to the witnesses that they may think proper; and the questions, with the answers to them, are in the same manner to be reduced into writing, signed, and authenticated. But if due notice be given to the parties or their *vakeels*, of the examination of any witness or witnesses before the register, and he or they shall not attend at the time of the examination, the register is to proceed in the examination as before directed, and the depositions are to be received as good and authentic evidence.

Cases in which the provincial courts of appeal are empowered to take new evidence in appeals, or to refer them back for further evidence to the *zillah* or city courts.

Provincial courts to state their reasons upon the record of the trial, whenever they may exercise the powers above vested in them.

Courts empowered either to hear the evidence in the cases above specified *vivâ voce*, or to order their register to take it.

XIX. The provincial courts of appeal may dispense with the oaths of such descriptions of witnesses as the *zillah* and city courts are authorized to exempt from taking of oaths, on their signing the declarations in open court, which are required to be subscribed by such witnesses in the *zillah* and city courts. Where witnesses may be women of the description specified in Section 6, Regulation IV. 1793, or shall reside out of the jurisdiction of the court, and at a distance from it exceeding fifty *coss*, the court may grant such commissions as the *zillah* and city courts are authorized to grant, for the examination of such witnesses upon similar occasions. And the provincial courts of appeal may issue such commissions to creditable women, and send such letters to the judges of the *zillah* and city courts for the examination of witnesses, in the cases in which the judges of the *zillah* and city courts are authorized to send such commissions and letters.

Cases in which the provincial courts may dispense with the oaths of witnesses,

or direct their evidence to be taken by commission.

Provincial courts how to proceed where witnesses do not attend, or refuse to be sworn or to give evidence, or sign their deposition, or any persons are guilty of contempt of court, or perjury.

XX. If a witness duly summoned shall not attend, or attending shall refuse to be sworn, or to give evidence, or to subscribe his deposition, or if such witness, or any person shall be guilty of wilful or corrupt perjury in a cause depending in the court, or any contempt of court in open court, the provincial courts of appeal are to proceed with such witness or person, in the same manner as the *zillah* and city courts are authorized to deal with witnesses or persons in like manner offending.

Court to dismiss appeals, if the appellants omit to proceed in six weeks, without shewing sufficient cause for the omission.

Reasons for the dismission of the appeal to be recorded.

XXI. If the appellant in an appeal filed in the provincial courts of appeal shall not proceed in the appeal for six weeks, the appeal is to be dismissed, unless the appellant shall show reasonable cause to the satisfaction of the court for not proceeding in it; and the court may, if they shall deem it equitable so to do, award to the respondent costs of suit. But in all such cases, the court are to enter at large upon their proceedings the grounds upon which they may permit or refuse to allow the appellant to proceed.

No persons to be heard *vivâ voce* in any stage of the cause excepting principals, their witnesses, or their *vakeels* duly empowered.

XXII. In suits that may be referred by the Governor General in Council, or the Sudder Dewanny Adawlut, to the provincial courts of appeal, and in appeals which may be preferred to those courts, no proceedings are to be held either on behalf of the plaintiff or defendant, or any acts whatever done, either on behalf of the appellant or respondent, except by the plaintiff or defendant, the appellant or respondent themselves, or by a *vakeel* admitted to plead in the court under Regulation VII. 1793; nor by any *vakeel* before his *vakalutnamah* shall have been filed in the court; and no persons excepting such parties, or their witnesses, or such *vakeels*, shall be heard, *vivâ voce*, in any stage in the cause.

Provincial courts how to proceed against *zemindars*, independent *talookdars*, or other actual proprietors of land, or dependant *talookdars*, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Decree to be passed if the offender shall not appear, or shall appear, and be proved guilty of the charge.

XXIII. If a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from a provincial court of appeal, the court, on proof of the resistance being made by oath to their satisfaction, are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house, or in any building, or retire to any place, so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time, or, if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court are to decree, that the offender shall from the date of their decree, forfeit his *zemindaree*, *talook*, or other estate in which such resistance shall have been made; or, if the resistance shall have been made out of the limits of the estate of the offender, the *zemindaree*, *talook*, or other landed property which he may possess within the jurisdiction of the *zillah* court, to which the execution of the process resisted may have been committed. If the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court in Section 10, Regulation VI. 1793, the provincial court is immediately to forward a copy of their decree and proceedings to the Governor General in Council. If an appeal shall be received from the decision of the provincial court, and the Sudder Dewanny Adawlut should confirm the decree, they are immediately to transmit a copy of their decree and proceedings, and of the decree and proceedings of the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial courts of appeal under this section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court, unless the annual produce of the lands of the offender which may be adjudged forfeited (calculating according to the amount paid and payable to the offender by the dependant *talookdars*, under-farmers, and *ryots*, on account of the year in which the decree may be passed) shall exceed one thousand sicca rupees. In the event of an appeal from the decree of the provincial court being presented to the Sudder Dewanny Adawlut, and the admission or rejection of the appeal should depend upon the produce of the lands for the year before mentioned exceeding or falling short of one thousand sicca rupees, the Court of Sudder Dewanny Adawlut is to order the provincial court to obtain the necessary information regarding the produce, and after receiving their report, admit or reject the appeal, according as they may deem equitable. It shall be at the option of the Governor Ge-

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealable, or not be appealed in time.

Sudder Dewanny Adawlut how to proceed, if the suit should be appealed to them, and they should confirm the decision of the provincial court.

Rule for determining from what decrees of the provincial courts passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

neral in Council, within four weeks after the receipt of a decree adjudging the lands of any person forfeited under this section, either to order it to be executed, or to commute the forfeiture for such fine, as, upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court which shall have transmitted the decree and proceedings to the Governor General in Council, upon receiving notice of the fine that he may impose, are to levy the amount of it by the same process by which they are directed to enforce decrees of the court. But if the Governor General in Council shall not within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture for a fine, the decree is to stand good against the defaulter. In such case, or in the event of the Governor General in Council ordering the decree to be executed, the court is to issue a precept, under the seal of the court and the signature of the register, requiring the collector of the revenue of the *zillah* to depute an *ameen* with a proper establishment of officers (whose allowances are to be specified in the precept) to sequester the lands, and collect the rents and revenues. If the lands of the defaulter shall be deemed by the court too inconsiderable to admit of their being charged with the expence of an *ameen*, they are to direct a precept to be issued to the collector of the *zillah*, to order the nearest *tehsildar*, or other officer employed under him in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to *ameens* in such cases, and under the same restrictions and penalties.

If the lands are decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine within four weeks after he may receive the decree.

If the forfeiture is commuted for a fine, by what court and how it is to be levied.

Decree of forfeiture to be final, if the Governor General in Council shall not order it to be executed, or commute it for a fine, within four weeks.

If the decree is declared or becomes final, the court to issue a process to the collector to sequester the lands.

XXIV. If the decree adjudging the lands of the offender forfeited, shall be confirmed or stand good under Section 23, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the lands forfeited, and to pay the fixed public revenue assessed upon them, or, if it be a dependent *talook*, the revenue payable from it to the proprietor within whose estate it may be situated; or, to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited in Regulation XLV. 1793.

If the forfeiture should stand confirmed, the Governor General in Council to confer the estate on the heirs of the offender, or to dispose of it at public sale.

XXV. If a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from a provincial court of appeal, on proof of the resistance being made by oath to their satisfaction, the court are to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or, if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to decree the lease cancelled from the expiration of the Bengal, Fussily, or Willaity year, (according as the farm may be situated in Bengal, Behar, or Orissa,) in which the decree may be passed. If the cause shall not be appealable, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court in Section 10, Regulation VI. 1793, the provincial court is immediately to forward a copy of the decree and proceedings to the Governor General in Council. If an appeal from the decision of the provincial court shall be admitted, and the Sudder Dewanny Adawlut should confirm the decree, they are immediately to transmit a copy of their decree, and of the decree and proceedings of the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained, from what decrees passed by the provincial courts of appeal under this section an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared that an appeal shall not lie to the last mentioned court, unless the *jumma* payable to Government by the offender for the year in which the decree may be passed, on account of the farm the lease for which may be adjudged annulled, shall exceed one thousand sicca rupees. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed,

Provincial courts how to proceed against persons holding farms of Government, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

Decree to be passed by the court, if the offender shall not appear, or shall appear and be proved guilty of the charge.

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealable, or not be appealed in time.

Sudder Dewanny Adawlut how to proceed, if they should admit an appeal, and confirm the decree of the court.

Rule for determining from what decrees passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Option reserved to the Governor General in Council to confirm the decree, or commute it for a fine,

and to compel the farmer to perform the conditions of his lease.

or to commute the forfeiture of the lease for such fine, as, upon a consideration of the situation and circumstances in life of the defaulter, he may think adequate to the offence for which the decree may be passed; or, if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements, until the term of them shall expire. If a fine shall be imposed upon the offender, the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. But if the Governor General in Council shall not, within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture of the lease for a fine, the decree is to stand good against the offender, and the court is without delay to cause a copy of the decree to be sent to the collector. If the lease of the offender shall be annulled, and a balance should be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector of the revenue of the *zillah* is empowered to proceed against them for the recovery of it in the manner prescribed in Section 20, Regulation XIV. 1793, for the recovery of balances due from farmers whose leases may be declared annulled under that regulation. The offender is permitted to prosecute in the *dewanny adawlut* of the *zillah* in which the farm may be situated, the dependant *talookdars*, under-farmers, and *ryots*, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

By what court and how such fines are to be levied.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

Farmers whose leases may be cancelled how to recover balances.

Court how to proceed against persons resisting process, who are not proprietors of land, *talookdars*, or farmers.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

XXVI. If any person not being a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from a provincial court of appeal, on proof of the resistance being made by oath to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own, or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence for which the decree may be passed. The rules regarding appeals to the Sudder Dewanny Adawlut from the decisions of the provincial courts of appeal, for sums of money, are to be held applicable to decisions which may be passed by the provincial courts under this section. If the fine shall not exceed one thousand sicca rupees, or if it shall be above that sum, and the offender shall not prefer an appeal to the Sudder Dewanny Adawlut within the time prescribed for lodging appeals, the court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.

Persons fined under this section, allowed an appeal to the Sudder Dewanny Adawlut under the rules for appealing from decisions passed for sums of money.

Court in what case and how to enforce such decrees.

Provincial courts empowered to order the *zillah* and city courts to enforce decrees for sums of money against proprietors of land, by the same process as they enforce such decrees passed by themselves.

XXVII. The provincial courts of appeal are empowered, in every case in which a sum of money is decreed to be paid by a *zemindar*, independent *talookdar*, or other actual proprietor of land, to issue an order to the proper *zillah* or city court to execute the decree, in the same manner as the *zillah* and city courts are authorized to execute decrees, by which a sum of money may be decreed to be paid by any of the descriptions of persons above mentioned.

Petitions of appeal from decisions founded on awards of arbitrators, to be dismissed with costs.

Exception to the rule.

XXVIII. If a petition of appeal shall be preferred against the decision of any *zillah* or city court founded on an award of arbitration, it is to be dismissed with costs, unless it be fully proved to the satisfaction of the court by the oaths of two credible witnesses, that the arbitrators have been guilty of gross corruption, or partiality, in the cause in which they have made the award.

XXIX. The petition of appeal, pleadings, depositions, and exhibits, in the provincial courts of appeal, are to be numbered, marked, dated, and signed by the register, in the same manner as the complaint, pleadings, depositions, and exhibits, are ordered to be numbered, marked, dated, and signed, by the register in the *zillah* and city courts. The decrees are to be signed by the judges present in court when the decrees may be passed, and attested by the register, and copies so signed and attested are to be delivered to the parties.

Proceedings of the provincial courts, how to be numbered, marked, dated, and signed.

Decrees to be signed by the judges, and attested by the register, and copies to be delivered to the parties.

XXX. The decrees of the provincial courts of appeal are to be final, in all suits in which the decree may be for land, or other real property being *lakheraje*, (or exempted from the payment of revenue to Government,) the annual produce of which shall not exceed one hundred sicca rupees; or for any *zemindaree*, independent *talook*, or other landed estate being *malguzaree* (or paying revenue to Government), where the produce shall not exceed one thousand sicca rupees per annum; or for any dependant *talook*, the annual produce of which shall not be more than one thousand sicca rupees; and in all other cases, where the decree shall be for a sum of money, or personal property, or real property not of the descriptions before mentioned, the amount or value of which shall not exceed the sum of one thousand sicca rupees.

Cases in which the decrees of the provincial courts of appeal are to be final.

XXXI. The provincial courts are not to require the* zillah *or city courts to furnish them with translates of papers written in the country languages, either in causes that may be appealed, or other matters.*

Provincial courts not to require translates of papers in the country languages from the zillah *or city courts.*

XXXII. In cases for which no specific rules may exist, the provincial courts of appeal are to act according to justice, equity, and good conscience.

Courts how to act in cases for which no rule may exist.

* This section is rescinded by Section 2, Regulation XIX. 1797.

A. D. 1795. REGULATION IX.

A REGULATION *for establishing a provincial Court of Appeal in the Province of Benares, for hearing Appeals from Decisions passed in the City Court, and the Zillah Courts in that Province, and defining its Powers and Duties, and prescribing Rules for receiving and deciding upon Appeals, and other Causes of which it is declared to have Cognizance.*—PASSED *by the Governor General in Council, on the* 27*th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE jurisdiction of the courts of *dewanny adawlut* established in the city of Benares, and the *zillahs* of Mirzapore, Ghazeepore, and Juanpore, being now extended not only to the causes relative to matters of revenue, which were heretofore cognizable by the resident, and the *aumils*, but to civil suits of all descriptions between individuals, and under certain restrictions, between Government and its subjects; and the reasons assigned in the preamble to Regulation V. 1793, for establishing provincial courts of appeal in the provinces of Bengal, Behar, and Orissa, being, in consequence, considered applicable to the province of Benares, the Governor General in Council has enacted as follows.

A provincial court of appeal established at Benares.

II. A court of appeal shall be established at the city of Benares, to be denominated the provincial court of appeal for the division of Benares. (**The court is to be superintended by three judges, who are to be styled, the first, second, and third judge of the court.*)

Court to be superintended by three judges; their official appellations; and oath of office.

Every judge, previous to entering upon the execution of the duties of his office, is to take and subscribe an oath similar to that prescribed for the judges of the provincial courts of appeal, in the provinces of Bengal, Behar, and Orissa, by Section 2, Regulation V. 1793.

Jurisdiction of the provincial court of appeal.

III. The jurisdiction of the provincial court of appeal, is to extend over the city of Benares, and the other places included in the jurisdiction of the city court, and the *zillahs* of Mirzapore, Ghazeepore, and Juanpore.

Court to be held in the city of Benares, in a large room, three days in each week, or oftener, if necessary.

No decree, order, &c. to be made but on court days, and in open court.

IV. The provincial court of appeal for the division of Benares, is to be held in the city of Benares. The court is to sit in a large and convenient room, three days in every week, (excepting for the period during which the judges may be employed in making the half yearly jail deliveries, in their capacity of judges of circuit,) or oftener, if the business shall require it; and no rule, order, proceeding, or decree, is to be made, but on court days, and in open court.

Seal of the court.

V. The provincial court of appeal for the division of Benares, is to use a circular seal of two inches in diameter, with the following inscription in the Persian character and language, and the Hindoostanee language and Nagree character, "The seal of the provincial court of appeal for the division of Benares."

Rules in Regulation V. 1793, from Section 6, to the conclusion, extended to

VI. The jurisdiction, powers, and authorities, vested in the provincial courts of appeal for the several divisions in the provinces of Bengal, Behar, and Orissa, by the several sec-

* This sentence is rescinded by Section 2, Regulation V. 1814.

Benares, with the alterations and modifications specified in the following sections.

tions of Regulation V. 1793, commencing from Section 6, to the conclusion of the said regulation, are hereby vested in the provincial court of appeal for the division of Benares, and all the rules in the said sections, are to be considered as extending to the province of Benares, with the following alterations and modifications.

Rules respecting the resistance of the process of the court in the *zillahs*, to be considered to extend to similar offences committed in the jurisdiction of the city court.

VII. The rules prescribed in Regulation V. 1793, and this regulation, respecting any *zemindar*, *talookdar*, or other proprietor of land, or farmer of land, or other person in the *zillahs*, who may resist, or cause to be resisted, any process, rule, order, or decree, of the provincial court of appeal, are to be considered as extending to any such person in the jurisdiction of the city court, who may be guilty of a similar offence.

What officers the court is to order to take charge of land adjudged forfeited under Section 23.

VIII. Where decrees of forfeiture may be ordered to be executed under Section 23, the court by which the decree is to be executed, is, in all cases, to issue a precept under the seal of the court, and the signature of the register, requiring the collector of the revenue, to sequester the lands, and collect the rents and revenues, and for this purpose, to order the nereast *tehsildar* or other officer, employed under him in the business of the collections, to take charge of the lands.

Rule substituted in lieu of Section 24.

How lands forfeited under Section 23, are to be disposed of.

IX. *First.* The following rule is substituted in lieu of Section 24.

Second. If the decree adjudging the lands of the offender forfeited, shall be confirmed, or stand good, under Section 23, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands, on his heirs, upon their agreeing to make good all sums whatever that may be due to Government from the defaulter on account of the lands forfeited, and to pay the fixed public revenue assessed upon them; or, if it be a common or distinct *putteedaree*, the revenue payable from it to the principal proprietor, or proprietors, or to the *pottah*-holder, or *pottah*-holders, in whose *pottah* the land may be included; or, to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited in Regulation XX. 1795.

Leases annulled under Section 25, to stand cancelled from the end of the Fussily year.

X. Leases of farmers finally adjudged annulled under Section 25, are to stand cancelled from the end of the Fussily year, agreeably to the principle prescribed by that section, in similar cases, in Bengal, Behar, and Orissa.

Collector to proceed against farmers whose leases may be annulled under Section 25, and their sureties, for arrears, in the manner specified in Regulation VI. 1795.

How the offender is to recover arrears which may be due to him.

XI. The collector is to proceed against farmers, whose leases may be annulled under Section 25, and their sureties, for the recovery of any arrears that may be due from them, in the manner specified in Regulation VI. 1795, instead of Section 20, Regulation XIV. 1793, as directed in the firstmentioned section, for the recovery of balances due from farmers, whose leases may be adjudged annulled, in consequence of their having resisted the process of the collector, or their sureties. The offender is permitted to prosecute in the *dewanny adawlut*, in the jurisdiction of which the farm may be situated, the *talookdars*, *zemindars*, *putteedars*, distinct and common, under-farmers, and *ryots*, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Languages and characters in which the process of the court is to be written and issued.

XII. All orders, and other process of the provincial court of appeal for the division of Benares, are to be written and issued in the same characters and languages, as the orders or other process of the provincial court of appeal for the division of Patna.

A. D. 1797. REGULATION XIX.

A REGULATION *for empowering the Provincial Courts of Appeal to require the Zillah and City Courts to furnish Translations of the Proceedings held therein, in Causes appealed to the Sudder Dewanny Adawlut; and for providing for the Translation of the Papers and Proceedings in such Causes, when the same cannot be made in due Time by the Registers and Assistants to the respective Courts.*—PASSED *by the Vice-President in Council, on the* 15*th December* 1797; *corresponding with the* 3*d Poose* 1204 *Bengal era; the* 11*th Poose* 1205 *Fussily; the* 3*d Poose* 1205 *Willaity; the* 11*th Poose* 1854 *Sumbut; and the* 25*th Jumaud us Sanee* 1212 *Higeree.*

Preamble.

CONSIDERABLE delay having frequently arisen in completing the translates of the proceedings in causes appealed to the Sudder Dewanny Adawlut, owing chiefly to the provincial courts of appeal being required by the existing rules to furnish translates not only of their own proceedings, but also of those of the *zillah* or city courts in which the cause may have been originally heard; and it being deemed proper that the *zillah* and city courts should furnish the translates of their own proceedings in such causes, both from their being necessarily more competent to certify the accuracy of the translates, and for the purpose of expediting them; and with a view to promote the lastmentioned object, it being deemed advisable that provision should be made for the translation of the papers and proceedings when the same cannot be made in due time by the registers and assistants to the provincial, *zillah*, and city courts; the following rules have been enacted, and are to be in force in the provinces of Bengal, Behar, Orissa, and Benares, from the date of the receipt of this regulation by the several courts respectively.

II. Section 31, Regulation V. 1793, is hereby rescinded.

Section 31, Regulation V. 1793, rescinded.

*III**. First. *The provincial courts of appeal shall not require the* zillah *or city courts to furnish them with translates of any proceedings or papers written in the country languages, excepting only the proceedings and papers in suits in which appeals may be preferred from their decision to the Sudder Dewanny Adawlut.*

Provincial courts not to require translates of proceedings, &c. except in causes appealed to the Sudder Dewanny Adawlut.

Second. *On the admission of an appeal from the decision of a provincial court of appeal to the Sudder Dewanny Adawlut, the provincial court is directed to transmit to the judge of the* zillah *or city court, in which the cause may have been tried in the first instance, the whole of the original proceedings held in the said* zillah *or city court, together with all original documents and papers recorded on the trial therein, and to require him, by a precept under the seal and signature of the court, to furnish a translation in English of all such proceedings, documents, and papers, within the period which may be prescribed to them by the Sudder Dewanny Adawlut for certifying the proceedings held in the cause, to the lastmentioned court. Nothing, however, contained in this clause shall be considered by the provincial courts as authorizing them to require the judges of the*

In causes appealed to the Sudder Dewanny Adawlut, the provincial court is to transmit to the zillah *or city judge, all the original papers, &c. and require by precept a translation thereof within the prescribed time.*

But not to require a translation of proceedings held in the provincial court.

* This section is repealed by Section 19, Regulation II. 1801.

zillah *and city courts to furnish a translation of the proceedings which may be held in the appeal by the provincial courts.*

Provincial court to certify the record, original and translate, to the Sudder Dewanny Adawlut.

Third. *The provincial court of appeal, on receiving the translation from the judge of the* zillah *or city court, are to certify the whole of the record, original and translation, to the Sudder Dewanny Adawlut.*

All translations required from the courts, to be made by their registers and assistants whenever it may be practicable.

When their other public duties will not admit of their preparing the translates, the judges are to report the circumstance to the Sudder Dewanny Adawlut, who, if they deem it necessary, will authorize them to employ other persons to make the translate, subject to the revision of the register, who is to be responsible for their accuracy.

IV. It is the province of the registers and assistants to the provincial, *zillah*, and city courts to make all translations required from these courts respectively, and it is expected they will at all times perform this duty, as far as may be in their power, consistently with the due discharge of their other duties. But if at any time their other public avocations will not admit of their preparing the translates of proceedings required to be transmitted to the Sudder Dewanny Adawlut, within the prescribed period, the judges of the respective courts are to represent the same to the Sudder Dewanny Adawlut, with information of the period required to enable their registers and assistants to make such translations without material impediment to the discharge of their other duties; and if the Sudder Dewanny Adawlut shall judge it necessary to have the translation before them at an earlier period, they are empowered to authorize the employment of any person or persons, possessing an adequate knowledge of the original language, to make such translations, subject to the revision of the register of the provincial, *zillah*, or city court from which such translation may be demandable, who, in all such instances, is to countersign the translation, as compared by him, and will be held responsible for the accuracy of it.

Rates to be allowed to persons not in the service for making translates.

V. Whenever any persons, not in the civil service of the Honourable Company, may be employed by the provincial, *zillah*, or city courts, under the authority given in the preceding section, the persons so employed are to receive a compensation for the translate made by them according to the following established rates, which have been fixed as a general standard for translations of every description, viz. one sicca rupee for one hundred words of the original language, and the same rate for figures, calculating five figures for a word. The judges of the provincial, *zillah*, and city courts are to communicate the above rates to the persons who may be employed by them, before they undertake the translation; and are to pay the same on a certificate from their registers that the translation has been duly completed, which certificate is to be endorsed by the register on the bill, after he shall have compared the translation as directed in the foregoing section.

Bills for the translation to be paid on a certificate from the register.

A. D. 1802. REGULATION IV.

A REGULATION *to constitute an occasional second Court of Appeal for the Division of Dacca.*—PASSED *by the Governor General in Council, on the 22d April,* 1802; *corresponding with the* 11*th Bysaak* 1209 *Bengal era; the* 4*th Bysaak* 1209 *Fussily*; *the* 11*th Bysaak* 1209 *Willaity; the* 4*th Bysaak* 1859 *Sumbut; and the* 18*th Zeelhij* 1216 *Higeree.*

Preamble.

IN consequence of the extensive jurisdiction of the court of circuit for the division of Dacca, and the interruption experienced in holding the court of appeal for this division, from two of the judges being often employed at the same time on the *zillah* and city jail deliveries, it has been found necessary to appoint a fourth judge of appeal and circuit for this division; whereby the jail deliveries have been since held at the regular periods fixed by Section 3, Regulation III. 1797, and the four judges are now present at the city of Dacca. But under the provisions contained in Regulations XLVII. 1793, and III. 1797, two judges are competent to hold a court of appeal, and whilst the business of the Dacca court of appeal, which has accumulated under the interruption above stated, shall remain in arrear, it will essentially promote the ends of justice to constitute an occasional second court of appeal for this division, when the presence of the four judges may admit of it. The Governor General in Council has therefore enacted the following regulation to be in immediate force.

For the purpose of expediting the decision of civil causes, two courts of appeal to be formed from the Dacca court of appeal at certain periods. The mode of forming these courts, and the principles on which they are to proceed and decide, laid down.

II. Whenever the four judges of the Dacca provincial court of appeal shall be present at the city of Dacca, and shall not be engaged in holding the jail delivery of the city or of Dacca Jelalpore, so that the whole of the judges can attend the civil court, they are authorized and directed, whilst the arrear of causes depending before them may require it, to form themselves into two courts of appeal. The first court to consist of the senior and junior judges, assisted by the *cauzy* attached to the provincial court. The second court to consist of the second and third judges, assisted by the *moofty* attached to that court. The four judges, who are to meet as usual upon all matters not specially referred to the first, or second court, so constituted, or any number of judges who under the existing regulations, may form a meeting of the regular court, shall be competent to refer to either of the courts so constituted, any cause, or causes, depending in appeal; and with respect to all causes so referred, each court shall possess the same powers as are vested by the regulations in the provincial court of appeal for the division of Dacca collectively. The second judge, who will preside in the second court of appeal, shall also possess, whilst acting in this capacity, the casting vote declared by Section 2, Regulation XLVII. 1793, to be vested in the senior judge, in cases where a difference of opinion may arise, subject to the restriction contained in Section 7, Regulation III. 1797; if the second judge, in opposition to the third judge, should be of opinion that the decree of the *zillah* or city court, in appeal, ought to be altered or reversed, and the cause be not further appealable to the court of Sudder Dewanny Adawlut. In such cases, as well as in all cases, to which the above section may be applicable before the Dacca provincial court, the cause is to be brought before a third judge; or the whole of the judges, if present at Dacca; and decided by a majority of voices; the senior judge possessing a casting vote if the number of judges present be equal.

The officers to attend the two courts respectively, enumerated. The mode in which their process is to issue, explained. Authorized to entertain any necessary additional establishments.

III. Whenever two courts of appeal for the division of Dacca may be constituted under the preceding section, the register shall attend the first court; and the senior assistant on the spot shall officiate as register to the second court. The meetings of both courts shall be held in separate apartments of the same court-house; or in such contiguous place as may be convenient to the parties and pleaders. The records of both courts shall remain with the established record-keeper; and all process shall be issued in the usual manner, for either court. If any additional native officers be requisite whilst the two courts are sitting, the judges are authorized to entertain the same, reporting the expence for the sanction of the Governor General in Council; but such additional establishment is to be continued only whilst the additional business arising from the sittings of the second court may indispensibly require it.

Sudder Dewanny Adawlut empowered to determine the operation of this regulation, and issue subsidiary instructions for giving it effect.

IV. The object of this regulation being to provide for a speedy decision of the causes in arrear before the Dacca provincial court, the operation of it is to cease, whenever this end shall appear to the court of Sudder Dewanny Adawlut to have been sufficiently accomplished. The provincial court will accordingly be guided by any instructions they may receive from the court of Sudder Dewanny Adawlut to discontinue the formation of a second court of appeal under this regulation. The Sudder Dewanny Adawlut is further empowered to issue any subsidiary instructions to the Dacca provincial court which may appear calculated to promote the object intended by this regulation.

A. D. 1803. REGULATION IV.

A REGULATION *for establishing a Provincial Court of Appeal, for hearing Appeals from Decisions passed in the several Zillah Courts, established in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company; and for defining the Powers and Duties of the said Court; and for prescribing Rules for receiving and deciding upon Appeals, and other Causes, of which the Court is declared to have Cognizance.*—PASSED *by the Governor General in Council, on the* 24*th March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

IT being essential to the administration of justice, in the provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, that an appeal should lie, in certain cases, from the decrees of the *zillah* courts, to a higher tribunal; which from the number of its judges, and the nature of its constitution, may be calculated to afford redress against unjust or erroneous decisions; and which, from its situation in the said provinces, may admit of an easy and speedy reference to its authority; and it being further necessary for expediting the decision of law suits, and for promoting the purposes of justice, that a tribunal so constituted should possess original jurisdiction in particular cases, and be vested with authority in certain cases for the better regulation of the inferior courts; the following rules have been acccordingly enacted.

A provincial court of appeal to be established.

II. A court of appeal shall be established at Bareilly, to be denominated the provincial court of appeal for the division of the provinces ceded by the Nawaub Vizier to the Honorable the English East India Company. The court shall be superintended by three judges, who are to be styled, the first, second, and third judge of the said court. Every judge, previous to entering upon the execution of the duties of his office, shall take and subscribe the following oath, before the Governor General in Council, or any person whom he shall commission to administer it:

Three judges to be appointed to the court. Their official appellations.

Oath to be taken by the judges.

"I, A. B. appointed judge of the provincial court of appeal of (————) solemnly swear, that I will administer justice, comformably to the regulations which have been or may be passed by the Governor General in Council; according to the best of my ability, knowledge, and judgment; without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any present or *nuzzer*, either in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided, in the court of appeal of which I am appointed a judge; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or *nuzzer*, in money or effects of any kind, from any party or person whomsoever, on account of any suit, to be instituted, or which may be depending, or has been decided in the court; that I will render a true and faithful account of all sums of money which may be paid into the court, or disbursed from it; that I will not be concerned, directly or indirectly, in the purchase of

goods or commodities in the British dominions subject to the immediate government of the presidency of Fort William, for the purpose of remitting money to Europe, or in any commercial transaction; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive. So HELP ME GOD."

Jurisdiction of the provincial court of appeal.

III. The jurisdiction of the provincial court of appeal is to extend over the *zillahs* hereafter specified.

Moradabad,
Bareilly,
Etawah,
Furruckabad,
Cawnpore,
Allahabad,
Goruckpore.

Court to be held in a large room, three days in each week, or oftener if necessary.

IV. The court shall be held in a large and convenient room, three days in every week; or oftener, if the business shall require it; and no rule, order, proceeding, or decree shall be made but on court days, and in open court.

No decree, order, &c. &c. to be made, but on court days, and in open court.

Seal of the court.

V. The provincial court of appeal shall use a circular seal of two inches in diameter, with an inscription to the undermentioned effect, in the Persian language and character, and in the Hindoostanee language and Nagree character: "The seal of the provincial court of appeal."

Provincial court to try cases referred to it by the Sudder Dewanny Adawlut; and to order its decree to be enforced by the *zillah* courts.

VI. The provincial court of appeal is empowered to try and determine, in the first instance, any suit or complaint, or any matter whatever of a civil nature, which may be transmitted to it for that purpose by the Sudder Dewanny Adawlut; and to order the decree which it may pass to be executed, by the judge of the proper *zillah* court, in the same manner as the decrees of the *zillah* courts are directed to be enforced.

Cases in which the provincial court of appeal is empowered to refer original suits to the *zillah* courts to be tried and determined.

VII. The provincial court of appeal is empowered to receive any original suit, or complaint, which may be cognizable in any *zillah* court, and to command the judge of such *zillah* court, by a precept, under the seal of the court and attested by the register, to receive the suit or complaint; and to proceed to hear and determine it; provided proof shall be previously made to the satisfaction of the provincial court, that the judge of the *zillah* court refused or omitted to receive or proceed in it. If the plaintiff shall refuse or neglect to proceed in the suit or complaint for the space of six weeks, after the order of the provincial court of appeal shall have been received by the *zillah* court, the judge is authorized to dismiss it; notwithstanding the order of the provincial court of appeal. In such cases, the judge, within one week after the dismission of the suit, shall certify, to the provincial court of appeal, under his hand and the seal of the court, that the suit or complaint has been dismissed, and the grounds of the dismission.

Suit or complaint to be dismissed, if the party preferring it shall omit or refuse to proceed in it for six weeks.

Judge to notify the dismission of the suit to the provincial court.

Cases in which the provincial court may receive petitions respecting suits, or matters depending, or which may have been decided in any *zillah* court.

Provincial court how to proceed with such petitions.

VIII. The provincial court is empowered to receive any petition respecting suits or matters which may be depending, or have been decided in any *zillah* court; and provided it shall be proved, to the satisfaction of the provincial court, that the petition was presented, or that due means were used to effect its being presented, to the judge of the *zillah* court, and that he refused or omitted to receive it, and proceed on it; or, in the lastmentioned case, that undue means were used by any of the officers of the court to prevent the petition from being presented; the provincial court is empowered to issue a precept under the seal of the court, and attested by the register, commanding the judge to receive the petition, and to proceed respecting it according to the regulations.

Court of appeal not to correspond with parties in suits, or any person respecting matters cognizable in the court.

IX. The provincial court of appeal is prohibited from corresponding by letter with parties in suits, on process or matters depending before them, or coming within their cognizance. If a party in a suit, or any person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he shall either appear in the court, in person, and represent the matter in writing; or make the representation in writing, through an authorized *vakeel*. The court shall pass whatever order upon the representation may appear to it proper, consistently with the regulations; and shall cause a copy of the order to be delivered to the person making the representation, or to his *vakeel*, under the seal of the court, and attested by the

register. The provincial court of appeal is also prohibited from corresponding by letter with the judges of the *zillah* courts, respecting any cause or matter before them, or upon any matters whatever, respecting which they may not be specially empowered so to correspond. When the provincial court shall have occasion to issue an order to the judge of any *zillah* court, or to require information from him, on the subject of any suit or matter before the provincial court, the court shall issue a precept, under its seal and the signature of the register, commanding the judge to execute the order, or requiring him to furnish the information; and the judge to whom the precept shall be directed, shall perform the exigence of it, or return good and sufficient reason why he has not done it.

Provincial court of appeal prohibited corresponding by letter with the judges of the *zillah* courts.

X. If any person shall charge the judge of a *zillah* court, before the provincial court of appeal, with having been guilty of corruption in opposition to his oath; the provincial court shall receive the charge, and forward it to the Sudder Dewanny Adawlut; provided the complainant shall previously make oath to the truth of the charge, (or subscribe the required declaration, if he shall be of the description of persons whom the court is empowered to exempt from taking oath,) and shall give security in whatever sum the court shall judge proper, to appear and prosecute the charge when required. Unless the complainant shall take the oath, or subscribe the abovementioned declaration, and give the required security, the court shall not receive the charge. In all other cases, not expressly provided for in this regulation, in which it shall appear to the provincial court of appeal, that the judges of the *zillah* courts have been guilty of negligence or misconduct in the discharge of their duty, they shall report the circumstances to the Sudder Dewanny Adawlut.

Provincial court of appeal empowered to receive charges of corruption which may be preferred to it against the judges of the *zillah* courts.

Rules to be observed in receiving such charges.

Provincial court to report to the Sudder Dewanny Adawlut all cases of misconduct or neglect in the judges, not expressly provided for by this regulation.

XI. In suits or complaints which may be transmitted by the Sudder Dewanny Adawlut, to be tried and determined by the provincial court of appeal, and also in appeals from the decisions of the *zillah* courts, (excepting as to hearing witnesses and receiving evidence,) the provincial court is to proceed in the same manner, and with the like powers and authority, and subject to the same restrictions, limitations, and exceptions, as are prescribed to the *zillah* courts.

By what rules the provincial court are to proceed, in cases referred to them for trial in the first instance, and in appeals preferred to them from the decisions of the *zillah* courts.

*XII**. First. *Any person who shall consider himself to be aggrieved by the decision of a* zillah *court, in any case appealable under the regulations, is permitted to appeal against such decision by petition to the provincial court of appeal. In cases in which an appeal is intended to be preferred, such appeal shall be presented, in the first instance, to the* zillah *court in which the decree appealed against shall have been passed. The judge of the* zillah *court shall, on the next court day, or as soon afterwards as may be practicable, admit the same, under the rules prescribed with regard to appeals.*

Persons deeming themselves aggrieved by the decisions of any zillah *court, at liberty to appeal in certain cases to the provincial court of appeal.*

To whom the petition of appeal is to be first presented.

Second. *The petition is to state (respect being had to the matter decreed) the annual produce of the land, whether* lakheraj *or* malguzaree; *the sum of money, or the value of the property, which may have been decreed; the name of the person in whose favour the decree shall have been given; the court in which it shall have been passed; when it was made; what was decreed by it; and whether the decree has been executed; and shall assign some cause, special or general, for appealing from the decision. The amount adjudged by the* zillah *court against the party desiring to appeal, or the amount of his claim disallowed by the decree from which he may be desirous to appeal, shall be the standard for determining his right to appeal, under the limitations prescribed by the regulations.*

What the petition of appeal is to contain.

What shall be the standard for determining the right to appeal.

Third. *The petition shall be accompanied by an attested copy of the decree of the* zillah *court; or by a written declaration, signed by the party desirous to appeal, or his* vakeel, *that ten days after the decision was passed, he applied to the judge of the court for a copy of the decree, and was denied it.*

What the petition of appeal is to be accompanied with.

Fourth. *The petition shall be presented to the court in which the decree appealed against shall have been passed, within three calendar months after the day on which the decree may have been given. But it shall nevertheless be permitted to such person to prefer his petition of appeal after the expiration of the three months; and the court is authorized to admit the appeal, provided the petitioner can show just and reasonable cause to*

Period limited for preferring appeals.

Cases in which the provincial court may admit appeals after the limited time.

* The whole of the section is rescinded by clause first, Section 3, Regulation XXVI. 1814.

its satisfaction, for not having preferred the appeal within the limited period. But whenever a court shall admit an appeal which may be preferred to it after the limited time, it shall enter upon the record of the trial, its reasons at large for admitting the appeal.

Court to record their reasons for admitting an appeal after the limited time.

Fifth. *In all authorized cases of appeal from the decrees of the* zillah *court to the provincial court, the court in which the decree appealed from all shall have been passed, shall suspend the execution of the decree while the appeal shall be depending; provided the party, against whom the decree shall have been passed, shall at the time of preferring his appeal, or within such reasonable period afterwards as shall be fixed for the purpose, deliver the securities required by this and the next following clause; viz. if the decree be for a* zemindaree, talook, *or other land, or for a house, or other real property, good and sufficient security in a sum equal to one year's produce thereof; and in all other cases, good and sufficient security in an amount equal to the sum of money, or value of the thing decreed; for the performance of the decree which shall be passed upon the appeal.*

Execution of decrees appealed from, to be suspended during the appeal under the prescribed security.

Sixth. *In all authorized cases of appeal, the party desirous of appealing, shall deliver with his petition of appeal, good and sufficient security for the payment of the costs which shall be awarded on the appeal; including the fees of his pleader, in case he shall intend to employ a pleader for the conduct of his appeal. Without such security, or without proof of inability to find the same, as required with respect to paupers by Regulation XIV.* 1803, *no appeal shall be admitted. It is hereby declared, that the presenting a petition of appeal, without the security required by this clause, before the expiration of the time limited for appealing, shall not be considered to preserve to the appellant his right of appeal, as far as respects the limitation in question. Provided, however, that if a party appealing, who may declare his intention to prosecute his appeal in person, shall afterwards be desirous to appoint an authorized* vakeel *to act for him; and, with his petition to this effect, or the* vakalutnamah *appointing such* vakeel, *shall deliver good and sufficient security for the fees of such pleader, in addition to the security for costs before delivered by him; such further security shall be admitted, and nothing in this regulation shall be understood to affect the right of appeal in such cases. But no pleader shall, in any instance, be allowed to act, in any court, until security has been given for his established fees, excepting under the provisions regarding paupers.*

Parties desirous of appealing, to deliver good security for the costs that may be awarded on the appeal, including fees of pleaders.

No appeal to be admitted without such security.

Presenting a petition of appeal, without the required security, declared not to preserve the right of appeal;

But a party declaring his intention to prosecute his appeal in person, may afterwards appoint an authorized pleader, with separate security for his fees.

And nothing in this section to affect the right of appeal in such cases.

No pleader, however, to act in any court until security has been given for his fees; except under provision for paupers.

Seventh. *When the securities above required shall have been entered into, the judge of the* zillah *court shall immediately endorse on the petition, in his own handwriting, the day of the month, and the year in which it was presented; and shall sign it with his name, and shall cause to be written in the margin of the record, immediately opposite to the decree of the court, the word "appealed;" and shall transmit the petition to the provincial court of appeal. The court shall, at the same time, direct notice in writing to be given to the appellant, that within fifteen days, the proceedings held in the cause appealed, will be certified to the provincial court of appeal: and that if he shall not proceed in the appeal within six weeks after the petition of appeal shall have been filed in the provincial court, his appeal will be dismissed; unless he shall show reasonable cause, to the satisfaction of the provincial court, for not having proceeded in it.*

When the appellants have entered into the securities required, the judge is to make the endorsement herein required on the petition;

To transmit to the provincial court of appeal;

To notify to the appellant that the proceedings will be certified to the provincial court, in fifteen days;

And that if he shall not proceed in the appeal in six weeks from the date of the petition being filed in the provincial court, it will be dismissed.

Eighth. *If the appellant in a cause depending before the provincial court of appeal, shall have entered into the securities required by the foregoing clauses in this section, and if from delay in the decision, the securities originally so given shall afterwards appear insufficient, (in respect to the period of time the cause has been pending, or is likely to remain still undecided,) that court is authorized, on the application of the respondent or respondents in all such cases, to require any additional security which they may deem necessary, to secure the party who shall have obtained a judgment in his favour, from any loss by the judgments not being executed while the cause is under appeal: and in default of such further security being given within a reasonable period to be fixed for that purpose, the court is empowered to direct the judgment in question to be carried into execution, in like manner as if no securities had originally been given by the appellant; provided, that in such cases good and sufficient security, as prescribed by the regulations, be given by the respondent, previous to his being put in possession of the property in litigation. The supplemental security required in this clause, as necessary to maintain a depending appeal, is carefully to be distinguished from the securities originally necessary to warrant*

Court of appeal may in particular cases require further security during appeals, if on application of the parties, the security taken appear insufficient.

In default of such further security being given by appellants, the judgment to be executed.

Provided the prescribed security be given by the respondent.

the cause being appealed. The supplemental security being only demandable by the provincial court, after a lapse of time: the original securities being requirable by the zillah *court previous to the petition of appeal being admitted.*

Provisions for cases wherein neither the appellant nor respondent may be able to give the prescribed securities.

Ninth. *As cases may occur, wherein neither the appellant nor the respondent may be able to give the prescribed securities for staying the execution of the decree, or for the execution thereof in favour of the plaintiff, it is hereby enacted, that in all such cases, the property adjudged shall, during the appeal, or until such time as one of the parties may be able to give the required securities, be held in attachment by the collector of the district wherein the land shall be situated, at the expense of the party who shall be ultimately declared entitled thereto, under the provisions in that respect established. No attachment, however, shall be made by any collector in the cases herein supposed, until he shall receive a precept, requiring him to make the same, from the* zillah *court wherein the original judgment in the cause shall have been passed; which precept shall state specifically, the property to be included in the attachment, and shall require the collector to continue the same until it shall be ordered to be withdrawn by a further precept from the court, to be issued either on the prescribed securities being given by one of the parties, or on the cause being finally determined.*

The collector to hold the adjudged property in attachment, in such case.

Zillah courts, on rejecting a petition of appeal to the provincial court, to furnish appellant with a copy of their order for such rejection;

And appellant at liberty to present his petition of appeal to the provincial court under restrictions prescribed.

Tenth. *Where a petition for an appeal to the provincial court shall be rejected by a* zillah *court, such court shall, on the court day next ensuing, or as soon afterwards as may be practicable, cause the appellant to be furnished with a copy of its order for the rejection of the appeal: and the appellant shall be still at liberty to present his petition of appeal to the provincial court, in the mode, and under the restrictions prescribed by this section; provided that such petition set forth the previous application made to the* zillah *court, and the rejection of the appeal by that court, and be accompanied by a copy of the order of rejection, or by a declaration that such copy was applied for, ten days after the same was passed, and not obtained.*

Where the appellant does not comply with the rules of appeal, decree to be executed.

Eleventh. *Where the party desiring to appeal shall neglect, or refuse, to enter into the securities, in the manner prescribed in this section, the court by whom the decision shall have been passed, is to order the decree to be executed.*

Rules for authorizing the provincial courts to take cognizance in certain cases of appeals which the zillah courts may have refused to admit, or dismissed without investigation.

Twelfth. *In all cases wherein an appeal shall lie, under the existing regulations, to a* zillah *court, from the decision of the register or native commissioners, and in which the* zillah *court shall have refused to admit the appeal, on the ground of delay, informality, or other default, in preferring it; or after having admitted the appeal, shall dismiss it on the ground of some default, without investigating the merits of the cause; it shall be competent to the provincial court to receive an appeal from the order or dismissal of the* zillah *court, whatever may be the amount or value at issue in the cause; provided such appeal be preferred in conformity to the rules prescribed with regard to other appeals to the provincial court; and if it shall appear to that court, on examination of the proceedings of the* zillah *court, that the appeal was rejected, or dismissed by the latter, on insufficient grounds: it may order the* zillah *court to receive the appeal; or to revive it, if received and dismissed; and to try and determine the cause upon its merits according to the regulations. Provided further, however, that if such appeals shall on inquiry be found groundless and litigious, the provincial court shall in all such instances, punish the litigious appellant as authorized by the regulations, in other cases of litigious appeals; viz. by a fine to Government, proportionate to the condition of the party, and to the circumstances of the case.*

Provisions respecting litigious appeals.

Above rule applicable to appeals to the register from decisions of the commissioners.

Thirteenth. *The principle contained in the above clause, shall be applied by the* zillah *judges to any appeals from decisions of the native commissioners, which may be referred by the* zillah *judges to their registers, in pursuance of the authority vested in them by Section* 19, *Regulation XII.* 1803, *and which may be dismissed by their registers on the ground of any default, without an investigation of the merits of the case.*

Record, including original papers in the cause appealed, to be transmitted to the register to the provincial court in fifteen days after the receipt of the appeal.

XIII. The judge of the *zillah* court, within fifteen days after the receipt of the appeal, shall certify under his hand, and the seal of the court, to the register of the provincial court of appeal, the record duly made up and authenticated; including the original complaint, answer, replication, and rejoinder of the parties; the original depositions, exhibits, and every original paper read in the cause. Previous to transmitting the abovementioned papers to the

Copies of all the original papers transmitted, attested by the *serishtadar*, to be deposited amongst the records of the court.

Copies to be deemed records, and to be received in evidence.

Copies of original papers to be sent to the provincial court, where the originals cannot be sent for the reasons herein specified.

provincial court of appeal, the judge shall cause true and faithful copies of all the originals, authenticated by the *serishtadar* or head native officer of the court, to be made out and deposited in the *zillah* court, in lieu of the originals. The copies shall be deemed to be records of the court, and shall be received in evidence in any other *zillah* court. In cases in which an original deposition, or any other original proceedings or matter whatsoever shall have been previously entered in any *zillah* court, in any book, which shall likewise contain proceedings in other distinct causes; or any other matter, so that such original papers cannot be transmitted to the provincial court of appeal without the other proceedings or matters; the judge of the *zillah* court, within the time, and in the manner before directed, shall certify a true and authentic copy of such original papers, and that the original of each copy transmitted is so entered in such book. But he shall nevertheless transmit the original complaint, the original answer, or other separate pleadings of the parties, and the original exhibits which shall have been delivered in, or produced by the parties, and read in the course of the cause before the court, if they be forthcoming, in the manner before required. In cases in which an original paper shall have been mislaid or lost, and a copy of it shall been entered in any book, or proceedings, the copy shall be deemed to be the original; and the judge shall transmit a copy of it to the provincial court of appeal; and shall in like manner, certify it, and that the original, after due search, cannot be found.

Recorded copies of original papers not forthcoming to be deemed the originals, and copies of them to be forwarded and certified as herein required.

Any private transfer or mortgage of land, or other real property, during appeals, declared null and void, in the event of the judgment against such property being confirmed on the appeal.

Provision for the public sale of the property adjudged, in such cases, on account of the public assessment.

XIV. *First.* In all instances in which a plaintiff, in a *zillah* court, shall obtain a judgment in his favour for land, or other real property; and the defendant appealing therefrom to a provincial court, shall be left in possession of the property, under the security prescribed by the regulations; any private transfer of such property by sale, gift, or otherwise, or any mortgage thereof which might be made by such appellant during the prosecution of an appeal to the provincial court; or of a further appeal to the court of Sudder Dewanny Adawlut, would in the event of the judgment against him being confirmed on the appeal, be of course, and is hereby declared to be, null and void; but as *malguzaree* lands (lands assessed with the public revenue) are in all cases, by whomsoever possessed, held answerable for the public revenue assessed thereon; and whereas according to the general rules established for the collection of the public revenue, such lands, and also *lakheraj* lands, and other property appertaining to the same estate, may become liable to sale by Government, from the neglect of the party in possession to discharge the revenue due therefrom; by which sale, in cases of appeal, the party to whom the property of the lands is ultimately adjudged, might, notwithstanding, be deprived of it, unless he purchased the same at the public sale. With a view of obviating all doubt respecting the right of the party making the purchase in such cases, it is hereby declared, that whenever any land or other property, for which a judgment shall have been obtained in any of the established courts of justice, but which, during an appeal from such judgment by the party cast, shall be left in the possession of the appellant, shall, while such appeal is depending, or before the ultimate judgment thereon be put in execution, be sold by Government, to make good an arrear of the public revenue due from the appellant; and shall be purchased by the respondent; the party so purchasing, in the event of such property being finally adjudged to him on the appeal, shall be entitled to recover from the appellant, so left in possession, the full amount of his purchase money; and of all expenses attending the purchase so made by him; with interest thereon at the rate of twelve per cent. per annum; in addition to any other sum which may be adjudged due to him on account of the profits arising from the land, or other property in question, anterior to the sale. It is further declared, that in the case above stated, if the respondent shall not have purchased the land, or other property, sold by Government to make good an arrear of public revenue due from the appellant left in possession thereof; and if the ultimate judgment on the appeal be in favour of such respondent, he shall be entitled to recover from the appellant left in possession, the amount of the purchase money paid for the property so sold, and adjudged to the respondent; with interest thereon, at the rate of twelve per cent. per annum; in addition to any other sum which may be adjudged to him on account of the profits arising from the property so sold, anterior to the sale of it; unless the property in question shall have been, directly or indirectly, purchased by the appellant himself, or in his behalf, at the public sale; in which case, on clear proof thereof being made by the respondent to whom such property may be ultimately adjudged, he shall be entitled to the possession thereof, and to all profits arising therefrom, as may be directed by the decree in the case, notwithstanding the fictitious sale supposed.

Rights of respondent in such cases, who may purchase the property sold by Government, and ultimately adjudged to him on the appeal.

Rights of respondent in such cases who may not purchase the property sold by Government, and ultimately adjudged to him on the appeal.

Second. The principles of the rules contained in the preceding clause, and in clause eighth, Section 12. of this regulation, shall be considered to be equally applicable to cases in which the plaintiff in a *zillah* court shall be put in possession of land, or other property adjudged to him, during an appeal, in consequence of the defendant's failing to give the securities prescribed; and generally, to all cases in which the possession of property shall be transferred by the decree of any court of justice, from which decree an appeal may be depending in a superior court, whether a provincial court of appeal, or the court of Sudder Dewanny Adawlut.

Principles of the preceding clause, and clause eighth, Section 12, declared to extend to all similar cases, whether the original plaintiff, or defendant, or the appellant, or respondent, be left in possession of the property during an appeal to the provincial court, or to the Sudder Dewanny Adawlut.

XV. All process both to parties and witnesses, and every rule or order for the execution of a decree or final order; and every other order whatever, which may issue from the provincial court of appeal, whether originating with the provincial court, or issued pursuant to orders from the Sudder Dewanny Adawlut, is to be written or printed in the Persian language and character, and in the Hindoostanee language and Nagree character, and sealed with the seal of the provincial court, and signed by the register. All such process, rules, and orders which are to be served or executed on any parties, witnesses, or persons, (exclusive of the parties, *vakeels*, or persons in actual attendance on the court,) shall be directed to the judge of the court of the *zillah* in which the cause of action shall originally have arisen, or in whose jurisdiction the lands shall be situated, or the parties shall be, or reside. Every such process, rule, and order, shall specify a certain time in which it is to be served, executed, and returned to the provincial court of appeal. If a judge of a *zillah* court, to whom any process, rule, or order whatever may be directed, shall wilfully disobey, or neglect to perform the commands contained in it, or make a false return, the provincial court is hereby enjoined to report immediately such disobedience, neglect, or false return, to the Sudder Dewanny Adawlut; and the judge so offending shall be liable to be suspended from his office by the Sudder Dewanny Adawlut. If the Sudder Dewanny Adawlut shall suspend the judge, that court shall notify the suspension to the Governor General in Council, within ten days after it shall take place, together with the cause of it; and certify under the seal of the court, the proceedings, depositions, and exhibits, and all other matters which may be necessary to enable the Governor General in Council to pass his determination respecting the suspension; and shall transmit to him, on his requisition, any further papers and proceedings respecting the cause which he may deem necessary for his information.

All process of provincial court of appeal (with the exception herein specified) to be issued through the *zillah* courts.

Provincial court of appeal enjoined to acquaint the Sudder Dewanny Adawlut whenever the *zillah* court refuse or omit to obey, or to conform to their process or requisitions.

Judges of the *zillah* courts liable to be suspended by the Sudder Dewanny Adawlut for such offences.

Sudder Dewanny Adawlut to report to the Governor General in Council the suspension of judges under this article within ten days

XVI. In all cases in which process, either to a party or witness, and all process whatever, and every rule or order for the execution of any decree or final order; or any order relating to a cause depending in a provincial court of appeal, which shall be directed by such court to the judge of a *zillah* court; the judge to whom the process shall be directed, shall execute the order contained in the process, rule, or order, and return it so executed within the time limited, or return to the provincial court good and sufficient reason why it has not been served or executed. When any process, rule, decree, or order for the execution of any decree or final order, or any order whatever shall be transmitted by the provincial court of appeal to the judge of a *zillah* court to be served or executed; the return to such process, rule, order, or decree, shall be made by the judge of the *zillah* court, either by endorsement on the process, rule, order, or decree; or shall be written on a paper firmly annexed to it; and, if the return be made in the lastmentioned manner, there shall be an endorsement on the process, rule, order, or decree, referring the provincial court of appeal to the return contained on such annexed paper; and the judge shall cause a copy of the process, rule, order, or decree, together with the return to it, to be deposited amongst the records of his court. And in all cases in which the provincial court of appeal shall transmit any order or process, to be served or executed by the judge of a *zillah* court, against a party in a cause; and the party on whom it is to be served or executed, is not, after diligent search, to be found; or shall have absconded, or shut himself up in his own, or any house or building; or retired to any place, so that the process cannot be served upon him; the judge to whom the process shall be directed, shall cause to be stuck up, in some conspicuous part of the room in which the court may be held, a writing in the Persian language and character, and in the Hindoostanee language and Nagree character, containing a copy of the order or process, and a notice that if the party shall not obey the exigence of it within the time limited, the provincial court of appeal will without further notice, process, or order, proceed, *ex parte*, to hear, try, and determine the

Process of the provincial court how to be served by the judges of the *zillah* courts.

To return the process executed, or reasons why it has not been executed.

Form and manner in which the return is to be made.

Judge to cause a copy of the process and return to be deposited amongst the records of the court.

Judge how to proceed in case any such process cannot be served upon the party, in consequence of his absconding or otherwise avoiding it.

Judge to fix up a writing in his court-room, and at the place of residence of the party.

What the writing is to contain.

cause to which such process or order shall relate; and the judge shall likewise cause a copy of such writing to be stuck up, with all practicable despatch, on the outer door of the house in which the party may have usually dwelt, or in some conspicuous place in the village in which he may have usually resided; and shall return to the provincial court of appeal, in the manner before directed, how he has executed the process.

Provincial court to proceed *exparte*, when the *zillah* courts shall report that a party has absconded, or was not to be found after the forms herein directed have been observed.

XVII. If the judge of a *zillah* court to whom any process, rule, or order of the provincial court of appeal shall be transmitted that it may be served or executed on any party, shall return that the party has absconded, or shut himself up in his own, or in any house or building, or retired to any place, so that the proeess could not be served upon him, or was not after diligent search to be found; and that he had caused the writing to be fixed up, in the places and manner directed; and the party shall not appear, and obey the exigence of the process, rule, or order; the provincial court shall proceed, *ex parte*, to try and determine the cause in which the process, rule, or order shall have issued, in the same manner as if the party had appeared and obeyed the exigence of the process.

Cases in which the provincial court of appeal is empowered to take new evidence in appeals, or to refer them back for further evidence to the *zillah* courts.

Provincial court to state its reasons upon the record of the trial, whenever it may exercise the powers above vested in them.

Court empowered to hear evidence in the cases above specified, *vivâ voce*, or to order their register to take it.

XVIII. The provincial court of appeal is empowered, in cases of appeals, in which it shall appear to it that the original suit has not been sufficiently investigated in the *zillah* court, or for any other cause which may be deemed reasonable by the provincial court; either to receive such further evidence as the court shall think necessary for the just determination of the suit, and give judgment upon it; or, shall refer the suit back to the *zillah* court in which it originated, accompanied by such special directions to the judge, with regard to the new evidence he is to receive respecting it, as shall be deemed by the court most conducive to justice, and the convenience of the parties and witnesses. But in every case in which the provincial court shall exercise the power above vested in it by this section, the court shall enter upon the record of the trial, its reasons for having exercised it. In cases in which the court shall judge it proper to receive such further evidence themselves, it is empowered, according as it shall deem most conducive to justice, (respect being had to the nature of the cause and the evidence,) either to examine the witnesses to be produced, *vivâ voce*, in open court; causing the witnesses to be first sworn, and their depositions to be reduced into writing, and signed by the deponents respectively; or to authorize the register of the court to swear the witnesses, and take their depositions; and to cause the deponents to sign them, and to authenticate them with his signature. The register shall in such case examine the witnesses in the presence of both parties, or their *vakeels*, who shall be at liberty to put any questions to the witnesses which they may think proper; and the questions, with the answers to them shall in the same manner be reduced into writing, signed and authenticated. But if due notice be given to the parties, or their *vakeels*, of the examination of any witness or witnesses before the register, and he or they shall not attend at the time of the examination, the register shall proceed in the examination as before directed, and the depositions shall be received as good and authentic evidence.

Cases in which the provincial court may dispense with the oaths of witnesses,

or direct their evidence to be taken by commission.

XIX. The provincial courts of appeal may dispense with the oaths of such description of witnesses as the *zillah* courts are authorized to exempt from taking of oaths, on their signing the declarations in open court, which are required to be subscribed by such witnesses in the *zillah* courts. Where witnesses shall be women of the description specified in Section 7, Regulation III. 1803; or shall reside out of the jurisdiction of the court, and at a distance from it exceeding fifty *coss*; the court may grant such commissions as the *zillah* courts are authorized to grant for the examination of such witnesses, upon similar occasions. And the provincial court of appeal may issue such commissions to creditable women; and send such letters to the judges of the *zillah* courts for the examination of witnesses, in the cases in which the judges of the *zillah* courts are authorized to send such commissions and letters.

Provincial court how to proceed where witnesses do not attend, or refuse to be sworn, or to give evidence, or sign their deposition, or any persons are guilty of contempt of court, or perjury.

XX. If a witness duly summoned shall not attend, or attending shall refuse to be sworn or give evidence, or to subscribe his deposition; or if such witness, or any person, shall be guilty of wilful or corrupt perjury in a cause depending in the court; or of any contempt of court, in open court; the provincial court of appeal shall proceed with such witness or person, in the same manner as the *zillah* courts are authorized to deal with witnesses or persons in like manner offending.

Court to dismiss appeals if the appellants omit to proceed in six weeks, without shewing sufficient cause for the omission.

XXI. If the appellant in an appeal, filed in the provincial court of appeal, shall not proceed in the appeal within the period of six weeks, the appeal shall be dismissed, unless the appellant shall shew reasonable cause to the satisfaction of the court for not proceeding in it; and the court may, if it shall deem it equitable so to do, award to the respondent costs of suit. But in all such cases, the court shall enter, at large, upon its proceedings, the grounds upon which it may permit or refuse to allow the appellant to proceed.

Reasons for the dismission of the appeal to be recorded.

No persons to be heard, *vivâ voce*, in any stage of the cause, excepting principals, their witnesses, or their *vakeels* duly empowered.

XXII. In suits which may be referred by the Sudder Dewanny Adawlut to the provincial court of appeal; and in appeals which may be preferred to that court, no proceedings shall be held either on behalf of the plaintiff or defendant, nor any acts whatever done, either on behalf of the appellant or respondent, excepting by the plaintiff or defendant, the appellant or respondent themselves, or by a *vakeel* admitted to plead in the court under the established regulations; nor by any *vakeel* before his *vukalutnamah* shall have been filed in the court; and no persons excepting such parties, or their witnesses, or such *vakeels*, shall be heard, *vivâ voce*, in any stage in the cause.

Provincial court how to proceed against *zemindars*, independent *talookdars*, or other actual proprietors of land, or dependant *talookdars* who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

Decree to be passed if the offender shall not appear, or shall appear, and be proved guilty of the charge.

XXIII. *First.* If a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, shall resist, or cause to be resisted any process, rule, order, or decree, which may at any time issue from a provincial court of appeal; the court, on proof of the resistance being made by oath to its satisfaction, shall cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own house, or in any house or building, or retire to any place, so that he cannot be served with the summons, the court shall proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time; or, if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge; the court shall decree that the offender shall, from the date of its decree, forfeit his *zemindaree*, *talook*, or other estate, in which such resistance shall have been made; or, if the resistance shall have been made out of the limits of the estate of the offender, the *zemindaree*, *talook*, or other landed property which he may possess within the jurisdiction of the *zillah* court to which the execution of the process resisted shall have been committed. If the cause shall not be appealable to the Sudder Dewanny Adawlut; or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court, by the established regulations; the provincial court shall immediately forward a copy of their decree and proceedings to the Governor General in Council. If an appeal shall be received from the decision of the provincial court, and the Sudder Dewanny Adawlut shall confirm the decree, the court shall immediately transmit a copy of its decree and proceedings, and of the decree and proceedings of the provincial court of appeal, to the Governor General in Council. An appeal shall not lie to the Sudder Dewanny Adawlut, unless the annual produce of the lands of the offender which may be adjudged forfeited, (calculating according to the amount paid and payable to the offender by the dependant *talookdars*, under-farmers, and *ryots*, on account of the year in which the decree shall be passed,) shall exceed five thousand sicca rupees. In the event of an appeal from the decree of the provincial court being presented to the Sudder Dewanny Adawlut, and of the admission or rejection of the appeal depending upon the produce of the lands for the year before mentioned, exceeding or falling short of five thousand sicca rupees; the court of Sudder Dewanny Adawlut shall order the provincial court to obtain the necessary information regarding the produce; and after receiving their report, admit or reject the appeal, according as the court may deem equitable. It shall be at the option of the Governor General in Council, after the receipt of a decree, adjudging the lands of any person forfeited under this section, either to order it to be executed, or to commute the forfeiture for such fine as upon a consideration of the situation and circumstances in life of the offender, he shall think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court which shall have transmitted the decree and proceedings to the Governor General in Council, upon receiving notice of the fine which he may impose, shall levy the amount of it by the same process by which the court is directed to enforce its decrees.

A copy of the decree to to be sent to the Governor General in Council, if the cause shall not be appealable, or not be appealed in time.

Sudder Dewanny Adawlut how to proceed, if the suit should be appealed to them, and they should confirm the decision of the provincial court.

In what cases such appeals are admissible.

If the lands are decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine.

If the forfeiture is commuted for a fine, by what court and how it is to be levied.

Decree not to be deemed final or carried into execution, till confirmed by the Governor General in Council.

Second. In cases wherein a decree for the forfeiture of an estate or farm shall be passed, and transmitted to the Governor General in Council, the decree in question shall not be deemed final until confirmed by the Governor General in Council, and shall not be carried into execution until notice of his confirmation be received.

If the decree is declared final, the court to issue a process to the collector to sequester the lands.

Third. In the event of the Governor General in Council ordering the decree to be executed, the court shall issue a precept, under the seal of the court, and signature of the register, requiring the collector of the revenue of the *zillah* to depute an *ameen*, with a proper establishment of officers (whose allowances shall be specified in the precept), to sequester the lands, and to collect the rents and revenues. If the lands of the defaulter shall be deemed by the court too inconsiderable to admit of their being charged with the expense of an *ameen*, it shall direct a precept to be issued to the collector of the *zillah*, to order the nearest *tehsildar*, or other officer employed under him in the business of the collections, to take charge of the lands. The officer shall perform the duties prescribed to *ameens*, in such cases, and under the same restrictions and penalties.

If the forfeiture should stand confirmed, the Governor General in Council to confer the estate on the heirs of the offender, or dispose of it at public sale.

XXIV. If the decree adjudging the lands of the offender forfeited, shall be confirmed under Section 23, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands, on his heirs, upon their agreeing to make good all sums whatever which may be due to Government from the defaulter, on account of the lands forfeited, and to pay the fixed public revenue assessed upon them; or, if it be a dependant *talook*, the revenue payable from it to the proprietor within whose estate it may be situated; or, to order the lands to be disposed of at public sale.

Provincial court how to proceed against persons holding farms of Government who shall resist their process.

Offender to be summoned to answer for his conduct.

XXV. If a farmer of land holding a farm immediately of Government, shall resist or cause to be resisted, any process, rule, order, or decree, which may at any time issue from a provincial court of appeal; on proof of the resistance being made by oath to their satisfaction, the court shall cause the offender to be summoned to answer to the charge. If the offender shall abscond; or shut himself up in his own house, or in any house or building, or retire to any place, so that he cannot be served with the summons, the court shall proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period; or, if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge; the court shall decree the lease cancelled from the expiration of the revenue year. If the cause shall not be appealable; or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court, the provincial court shall immediately forward a copy of the decree and proceedings to the Governor General in Council. If an appeal from the decision of the provincial court shall be admitted, and the Sudder Dewanny Adawlut shall confirm the decree, the court shall immediately transmit a copy of its decree, and of the decree and proceedings of the provincial court of appeal, to the Governor General in Council. An appeal shall not lie to the Sudder Dewanny Adawlut, unless the jumma payable to Government by the offender for the year in which the decree shall be passed on account of the farm, the lease for which may be adjudged annulled, shall exceed five thousand sicca rupees. It shall be at the option of the Governor General in Council, after the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine, as upon a consideration of the situation and circumstances in life of the defaulter, he shall think adequate to the offence for which the decree may be passed; or, if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, shall levy the amount of it by the same process as is prescribed for enforcing its decrees. If the lease of the offender shall be annulled, and a balance shall be due from him to Government at the close of the year in which the lease shall be cancelled, both he and his surety shall be held responsible for the payment of it; and the collector of the revenue of

Court how to proceed, if the offender shall not obey the summons.

Decree to be passed by the court, if the offender shall not appear, or shall appear, and be proved guilty of the charge.

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealable, or not be appealed in time.

Sudder Dewanny Adawlut how to proceed, if they should admit an appeal and confirm the decree of the court.

Rule for determining from what decrees passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Option reserved to the Governor General in Council, to confirm the decree or commute it for a fine, and to compel the farmer to perform the conditions of his lease.

By what court, and how such fines are to be levied.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

the *zillah* is empowered to proceed against them for the recovery of it, agreeably to the rules in that respect established. The offender is permitted to prosecute in the court of *adawlut* of the *zillah* in which the farm shall be situated, the dependant *talookdars*, under-farmers, and *ryots* in the lands included in the farm, for any arrears of rent or revenue which shall be due from them to him on account of the period during which his lease remained in force.

Farmers whose leases may be cancelled, how to recover balances.

XXVI. If any person not being a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any processs, rule, order, or decree which shall at any time issue from a provincial court of appeal; on proof of the resistance being made by oath to its satisfaction, the court shall cause the offender to be summoned to answer to the charge. If the person to whom the summons shall be issued shall abscond, or shut himself up in his own house, or in any house or building, or retire to any place, so that he cannot be served with the summons; the court shall proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court shall adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence for which the decree may be passed. The rules regarding appeals to the Sudder Dewanny Adawlut from the decisions of the provincial court of appeal for sums of money, shall be held to be applicable to decisions which may be passed by the provincial court under this section. If the fine shall not exceed five thousand sicca rupees, or if it shall be above that sum, and the offender shall not prefer an appeal to the Sudder Dewanny Adawlut within the time prescribed for lodging appeals, the court shall proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.

Court how to proceed against persons resisting process who are not proprietors of land, *talookdars*, or farmers.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

Persons fined under this section allowed an appeal to the Sudder Dewanny Adawlut, under the rules for appealing from decisions passed for sums of money.

Court in what case, and how to enforce such decrees.

XXVII. The provincial court of appeal is empowered in every case in which a sum of money shall be decreed to be paid by a *zemindar*, independent *talookdar*, or other actual proprietor of land, to issue an order to the proper *zillah* court to execute the decree, in the same manner as the *zillah* courts are authorized to execute decrees by which a sum of money may be decreed to be paid by any of the descriptions of persons above mentioned.

Provincial court empowered to order the *zillah* courts to enforce decrees for sums of money against proprietors of land by the same process as they enforce such decrees passed by themselves.

XXVIII. If a petition of appeal shall be preferred against the decision of any *zillah* court, founded on an award of arbitration, it shall be dismissed with costs; unless it be fully proved to the satisfaction of the court, by the oaths of two credible witnesses, that the arbitrators have been guilty of gross corruption or partiality in the cause in which they have made the award.

Petitions of appeal from decisions founded on awards of arbitrators to be dismissed with costs.

Exception to the rule.

XXIX. The petition of appeal, pleadings, depositions, and exhibits in the provincial court of appeal, shall be numbered, marked, dated, and signed by the register; in the same manner as the complaint, pleadings, depositions, and exhibits, are ordered to be numbered, marked, dated, and signed by the register in the *zillah* courts. The decrees shall be signed by the judges present in court when the decrees shall be passed, and shall be attested by the register; and copies so signed and attested, shall be delivered to the parties.

Proceedings of the provincial court how to be numbered, marked, dated, and signed.

Decrees to be signed by the judges, and attested by the registers, and copies to be delivered to the parties.

XXX. *First.* The decrees of the provincial court of appeal shall be final, in all suits in which the decree shall be for land, or other real property being *lakheraj*, (or exempted from the payment of revenue to Government,) the annual produce of which shall not exceed five hundred sicca rupees; or for any *zemindaree*, independent *talook*, or other landed estate being *malguzaree*, (or paying revenue to Government,) where the produce shall not exceed five thousand sicca rupees per annum; or for any dependant *talook*, the annual produce of which shall not be more than five thousand sicca rupees: and in all other cases where the decree shall be for a sum of money, or personal property, or real property not of the description before mentioned, the amount or value of which shall not exceed the sum of five thousand sicca rupees.

Cases in which the decrees of the provincial court of appeal are to be final.

Second*. *Persons considering themselves to be aggrieved by the decree of the provincial court, from which decree no appeal can be had under this section to any superior court;*

Petitions for a review of causes from the decision on which no appeal can be had,

* This clause is rescinded by clause first, Section 4, Regulation XXVI. 1814.

to be presented to the court passing such decision.

and who from the discovery of new matter or evidence which was not within their knowledge, or could not be adduced by them, at the time when the decree was passed; or for other good and sufficient reason, shall be desirous of obtaining a review of the judgment passed against them, are at liberty to present a petition for this purpose to the provincial court; and, if the court shall, on consideration of the reasons urged by the party, be of opinion, that the review desired is necessary to correct an evident error in the judgment, or otherwise for the due administration of justice; the court shall report the same, with the grounds of such opinion, to the court of Sudder Dewanny Adawlut: transmitting at the same time, a copy of the petition presented to the provincial court; and the said court shall be guided by the instructions which it may receive from the Sudder Dewanny Adawlut in admitting or rejecting the prayer of such petition; as well as in the admission of evidence, if the review be granted, on the further proceedings to be held by them in consequence. Provided, however, that no reference to the Sudder Dewanny Adawlut shall be considered obligatory, in cases wherein the provincial court shall deem the reasons urged for a revision thereof insufficient; the court's rejection of the petition for a review in all such cases being hereby declared conclusive.

Report to be made to the Sudder Dewanny Adawlut, if the judges shall consider it necessary for the due administration of justice.

Instructions of the Sudder Dewanny Adawlut to determine the admission or rejection of the review desired, as well as what new evidence shall be admitted.

But no reference to the Sudder Dewanny Adawlut obligatory, if the provincial courts, wherein the final decree was passed, deem the reasons urged for a review thereof insufficient.

XXXI. The provincial court of appeal shall not require the *zillah* courts to furnish it with translations of proceedings and papers in causes appealed to the court of Sudder Dewanny Adawlut, unless in cases where translations may be expressly required by that court, of the proceedings held, or papers filed, in the *zillah* courts.

Provincial court shall not require translations from the *zillah* courts, unless called for by the Sudder Dewanny Adawlut.

XXXII. It shall be the duty of the registers and assistants to the provincial and *zillah* courts, to make all translations required from those courts respectively; and the registers and assistants shall at all times perform this duty, as far as may be in their power, consistently with the due discharge of their other duties. But if at any time, the other public avocations of the registers and assistants shall not admit of their preparing the translations of proceedings required to be transmitted to the Sudder Dewanny Adawlut within the proper period, the judges of the respective courts shall represent the same to the Sudder Dewanny Adawlut, with information of the period required, to enable their registers and assistants to make such translations, without material impediment to the discharge of their other duties; and if the Sudder Dewanny Adawlut shall judge it necessary to have the translations before them at an earlier period, that court is empowered to authorize the employment of any person or persons possessing an adequate knowledge of the original language, to make such translations, subject to the revision of the register of the provincial or *zillah* court from which such translation may be demandable; who, in all such instances, shall countersign the translations as compared by him, and shall be held responsible for the accuracy of it.

All translations required from the courts, to be made by their registers and assistants, whenever it may be practicable.

When their other public duties will not admit of their preparing the translates, the judges are to report the circumstance to the Sudder Dewanny Adawlut; who, if they deem it necessary, will authorize them to employ other persons to make the translates, subject to the revision of the register, who is to be responsible for their accuracy.

XXXIII. In cases in which persons, not in the civil service of the Honorable Company, shall be employed by the provincial or *zillah* courts, under the authority given in the preceding section, the persons so employed shall receive a compensation for the translations made by them according to the following established rates, which have been fixed as a general standard for translations of every description: viz. one sicca rupee for one hundred words of the original language, and the same rate for figures, calculating five figures for a word. The judges of the provincial and *zillah* courts shall communicate the above rates to the persons who may be employed by them, before they undertake the translation; and shall pay the same, on a certificate from their registers that the translation has been duly completed; which certificate shall be endorsed by the register on the bill, after he shall have compared the translation as directed in the foregoing section.

Rates to be allowed to persons not in the service for making translates.

Bill for the translation to be paid on a certificate from the register.

XXXIV. In cases for which no specific rules may exist, the provincial court of appeal shall act according to justice, equity, and good conscience.

Courts how to act in cases for which no rule may exist.

XXXV. In cases in which the provincial court of appeal shall confirm the decree of a *zillah* court, the provincial court shall adjudge interest at the rate of one per cent. per mensem on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree; and shall punish appeals which may appear to them litigious, by a fine to Government, proportionate to the condition of the party, and the circumstances of the case.

Interest to be allowed on sums adjudged by the decree appealed from, if confirmed; and litigious appeals to be punished by a fine.

A. D. 1807. REGULATION I.

A REGULATION *for defining the Duties to be performed, and Powers exercised, by single Judges of the Provincial Courts of Appeal, in the Absence of the other Judges of the Court.*---PASSED *by the Governor General in Council, on the* 29*th January* 1807; *corresponding with the* 17*th Maug* 1213 *Bengal era; the* 5*th Maug* 1214 *Fussily; the* 17*th Maug* 1214 *Willaity; the* 6*th Maug* 1863 *Sumbut; and the* 19*th Zekaad* 1221 *Higeree.*

Preamble.

NO provision having been made in the regulations for the ceded and conquered provinces, to define the duties which devolve upon a single judge of the provincial court, who may remain at the station where the court is held, during the absence of the other judges; and the provisions made for this purpose in the provinces of Bengal, Behar, and Orissa, by Section 12, Regulation VII. 1794, (extended to Benares by Section 15, Regulation XVI. 1795,) having been found to require explanation and amendment; moreover no part of the existing regulations providing for the performance of any duty by one of the judges of the provincial courts of appeal, when another judge may be present at the station where the court is held, but may not be able to attend the sittings of the court from indisposition or other cause; the following rules are enacted by the Governor General in Council, to be in force from the time of their promulgation, in all the provinces subject to the immediate government of the presidency of Fort William.

Section 12, Regulation VII. 1794, rescinded.

II. Section 12, Regulation VII. 1794, is hereby rescinded.

Authority and direction given to a single judge of appeal, to perform the duties specified in Sect. 4.

III. Whenever one judge only of a provincial court of appeal may be present at the station where the court is held, or though two or more judges may be present at the station, if one judge only shall be able to attend on the days fixed for the sittings of the court, which under the regulations now in force, are to be held three days in every week, or oftener, if the business shall require it, the officiating judge so attending the court, is authorized and directed to perform the duties specified in the following section.

Specification of those duties.

IV. *First.* To execute all decrees, precepts, and orders of the Sudder Dewanny Adawlut, and make returns in the prescribed form in all cases of reference from that court; also to receive petitions of appeal to the Sudder Dewanny Adawlut from the decisions of the provincial court, which may be duly presented within the fixed period; and to proceed thereupon as directed by the regulations.

Further duties to be performed by a single judge of a provincial court.

Proviso.

Secondly. To execute all decrees and orders which may have been passed by two or more judges of the provincial court, and which shall not have been carried into full execution; provided that this authority be not construed to empower any single judge to perfect interlocutory decrees, by passing final judgment or order upon any point left undetermined by the decision of a competent provincial court, or generally to give any determination upon the rights of parties which may not have been expressly adjudged at a regular sitting of the provincial court.

What other duties a single judge of a provin-

Thirdly. To receive petitions of appeal from decisions of the *zillah* and city courts, whether transmitted by the judges of those courts, or presented, as allowed in particular cases

cial court is authorized to perform.

by the regulations, immediately to the provincial court; and if the appeal shall clearly appear to be admissible under the prescribed limitations, and the petition for it shall have been duly presented within the fixed period, to admit the appeal, and issue all consequent process for the appearance of the respondent, as well as for obtaining the proceedings held upon the cause appealed. But if the petition of appeal shall not have been presented within the limited period; or, although so presented, if there appear to be any room for doubt whether the cause be regularly appealable to the provincial court, or if the petition be for a special appeal, in cases where a regular appeal is not open to the provincial court, the admission or rejection of the appeal shall be left for the consideration of a competent court, and the single judge receiving the petition, shall merely record the receipt of it, and of the institution fee and securities required to accompany it, which shall be returned in the event of the appeal's not being ultimately allowed by the provincial court.

Continuation of the specification of duties to be performed by a single judge of a provincial court.

Fourthly. To ascertain and determine the sufficiency of securities offered for the admission of appeals, or for the fees of pleaders; or for staying the execution of decrees appealed from; to summon and examine witnesses for proving *vakalutnamahs*, or *moktarnamahs*; or for establishing the poverty of paupers; and to prepare appealed causes for trial, by receiving the pleadings of the parties, or their *vakeels*, and any exhibits which may accompany them.

Further specification of those duties.

Fifthly. To summon and examine any witnesses upon the merits of the case in appeal whom the provincial court may have previously ordered to be examined; or where evidence may be offered upon points in which the provincial court may have resolved to admit new evidence on a previous hearing of the appeal. But this authority shall not be considered to empower any single judge to summon or examine witnesses, upon any point relative to the merits of a cause in appeal, unless two or more judges of the provincial court shall have directed the examination of such witnesses, or have resolved to admit new evidence on the point or points, in proof of which such witnesses may be adduced.

Continuation of the same subject.

Sixthly. To proceed in causes referred for trial in the first instance to the provincial court by the Governor General in Council, or by the Sudder Dewanny Adawlut, in like manner as stated in the foregoing clauses respecting appeals, and under the same restrictions.

What other duties are to be performed by a single judge of a provincial court.

Seventhly. To receive miscellaneous petitions relative to matters depending before, or decided by, any *zillah* or city court, in all cases wherein the provincial courts are authorized to receive such petitions; and to proceed thereupon as the provincial courts are empowered to proceed; except that no final order shall be passed upon the subject of any such petition until two or more judges be present, nor shall a single judge of the provincial court be deemed competent to pass a final and conclusive order, in any case whatever.

Conclusion of this subject.

Eighthly. To correspond with the Governor General in Council, with the Sudder Dewanny Adawlut, with the other provincial courts of appeal, with the *zillah* and city courts, and generally with all public officers, in like manner as the provincial courts are authorized to correspond with such public officers; and to perform all miscellaneous duties, arising out of such correspondence, or incident to the necessary discharge of the usual functions of an officiating judge of a provincial court of appeal; also to furnish the monthly and other periodical reports and accounts prescribed by the regulations, or required by the orders of Government, or of the court of Sudder Dewanny Adawlut.

In the execution of the duties above described, a single judge of a provincial court, or an acting judge thereof, to possess the same powers as the court collectively; subject to the restrictions specified, and to the further restriction in Section 6.

V. In the execution of the duties prescribed by the preceding section, a single judge of a provincial court of appeal, or an acting judge appointed to officiate as such, when none of the judges of a provincial court may be present at the station where the court is held, shall possess the same powers as are vested by the regulations in the court collectively, subject to the several restrictions specified, and also to the further restriction noticed in the following section.

How a single judge of a provincial court, or an acting judge or register

VI. In the event of any witness, who may be examined by a single judge of a provincial court, or by a person appointed to officiate as such, or by the register of the provincial court acting under the orders of a single judge, appearing to be guilty of perjury, so as to merit commitment for trial before the court of circuit, in pursuance of the provisions made by the regulations for that purpose; the judge may cause such witness to be held to

bail, or if satisfactory bail be not given for his appearance at the first regular sitting of the provincial court, may cause him to be kept in custody until he can be brought before two or more judges of the provincial court; but shall not pass a final order to commit the witness for trial on a charge of perjury, until the grounds of it shall have been submitted for the determination of a competent court.

thereof, is to proceed with a person appearing to be guilty of perjury.

VII. The powers vested by this regulation in a single judge of a provincial court of appeal, shall not be construed to prevent the court at large, or any two judges of the court, from re-examining witnesses whose depositions may have been taken before a single judge, if it appear requisite; or from examining any other witnesses in the cause; or generally from passing any order that may appear proper, and consistent with the regulations, whether in addition to, or in qualification or abrogation of, any previous order of a single judge.

Powers vested by this regulation in a single judge of a provincial court, not to be construed to prevent the court at large, or any two judges thereof from re-examining witnesses, or performing any of the other acts herein specified.

A. D. 1808. REGULATION XIII.

A REGULATION *for rendering Civil Causes, which are appealable to the Court of Sudder Dewanny Adawlut, cognizable in the first Instance by the Provincial Courts; and for authorizing the Execution of Decrees appealed from, in certain Cases.*—PASSED *by the Governor General in Council, on the* 30*th December* 1808; *corresponding with the* 17*th Poose* 1215 *Bengal era; the* 27*th Poose* 1216 *Fussily; the* 17*th Poose* 1216 *Willaity; the* 13*th Poose* 1865 *Sumbut; and the* 11*th Zekaad* 1223 *Higeree.*

Preamble.

UNDER the rules in force, all causes of a civil nature, which may not be specially referred by the Governor General in Council, or by the Sudder Dewanny Adawlut, for trial in the first instance by the provincial courts, are instituted in the *zillah* or city courts; excepting suits for personal property not exceeding fifty rupees, which may be received by the native commissioners vested with the authority of *munsiffs*. In all cases tried by the *zillah* and city judges in the first instance, an appeal from their decisions lies to the provincial courts; and if the cause of action exceed five thousand sicca rupees, a further appeal is open to the court of Sudder Dewanny Adawlut. In consequence of the second appeal allowed, in the cases last mentioned, considerable delay frequently occurs in the final determination upon contested claims to large estates, and other valuable property. Much injury to the rightful owners is often occasioned by such delays; and the expense to all parties is increased, without any adequate benefit. The person against whom the judgment is given, whether by a *zillah*, city, or provincial court, is seldom willing to abide by it, whilst he is at liberty to appeal from it. And the general option given to appellants by the existing regulations, to retain possession of property adjudged, until a final decree be passed, under security for the performance of such final decision, has been found to encourage litigious and groundless appeals, for the sole purpose of keeping possession of the property in dispute, to the prejudice of the real proprietor. To provide against this abuse, it is expedient that whenever the person, to whom land, houses, or other immovable property may be adjudged, shall be able to give the prescribed security for performing the judgment to be passed on an appeal, he should obtain immediate possession of the property adjudged to him, notwithstanding the appeal; unless special cause appear to the satisfaction of the court of appeal, for leaving the appellant in possession, until the appeal be determined upon. And, for the reasons above stated, it is advisable that all causes ultimately appealable to the Sudder Dewanny Adawlut should be made originally cognizable by the provincial courts. In addition to the advantage which the parties in such causes will derive from this measure, it may be expected that it will promote the speedy decision of other suits cognizable in the *zillah* and city courts, by relieving the judges of a part of their present duty. At the same time it will be requisite, as well for the convenience of witnesses residing at a distance from the stations of the provincial courts, as to prevent too great an accumulation of business in those courts, that a discretionary power should be vested in them of causing the depositions of witnesses to be taken in the *zillah* and city courts; or before the judge of the provincial court, who may proceed upon the half yearly circuit. For these purposes, the Governor General in Coun-

cil has enacted the following rules, to be in force, as soon as promulgated, in the several provinces immediately subject to the presidency of Fort William.

Part of existing regulations, vesting original jurisdiction in *zillah* and city courts, in regular civil causes of amount or value exceeding 5,000 rupees, hereby rescinded.

II. Such part of the existing regulations as vests original jurisdiction in the *zillah* and city courts of *dewanny adawlut*, for the institution, trial, and decision, of regular civil suits, in which the cause of action may exceed five thousand sicca rupees, viz: for *malguzaree* land, the computed annual produce of which, as described in Section 3, Regulation IV. 1793, and Section 3, Regulation III. 1803, may exceed five thousand sicca rupees; or for *lakheraj* land, the computed annual produce of which may exceed five hundred sicca rupees; or for a house, tank, garden, or any other description of immoveable property the computed value of which may exceed five thousand sicca rupees; or for money, effects, or other moveable property, exceeding in amount or value, the sum of five thousand sicca rupees; is hereby rescinded.

Such causes to be tried in the first instance, by the provincial courts.

III. *First.* All regular civil suits, for an amount or value exceeding five thousand sicca rupees, as specified in the preceding section, shall be instituted, heard, and determined in the first instance, under the general rules applicable to the institution, trial, and decision, of such causes, in the provincial court of the division, in which the land, house, or other immoveable property sued for may be situated; or, in other cases, in the provincial court of the division in which the cause of action may have arisen, or the defendant may reside as a fixed inhabitant, when the suit against him is commenced.

Petition of plaint, institution fee, and securities, to be delivered in to provincial court.

Unless provincial court shall permit the same to be delivered in *zillah* court.

Second. The petition of plaint, with the institution fee, and securities required by the regulations, in such cases, are to be delivered to the provincial court; unless upon the representation of parties, in particular instances, that it will be more convenient to them to deliver the institution fee, or requisite security, to the court of the *zillah* in which they reside, the provincial court shall think it proper to permit the same; in which case they shall cause notice of such permission to be issued to the *zillah* judge, and fix a period for compliance with it.

Disputes between parties respecting causes instituted in a *zillah* or city court, being cognizable or not by such court under this regulation, by whom and under what rules to be decided.

IV. *First.* If the plaintiff in a *zillah* or city court shall state his cause of action, as not exceeding five thousand sicca rupees, and the defendant shall, in answer, deny such statement, and allege the produce, amount, or value, to be such as to render the suit not cognizable by the *zillah* or city court, under this regulation, the judge of that court, previously to entering upon any investigation of the merits of the cause, shall make such inquiry as may appear necessary to ascertain whether the suit be, or be not receivable, in the *zillah* or city court; and shall pass an order accordingly; leaving either party, who may be dissatisfied therewith, to prefer a summary appeal therefrom, to the provincial court; whose decision shall be final upon the question, whether the suit be cognizable, or not, in the *zillah* or city court. But no such objection to the plaintiff's statement of the cause of action shall be received from the defendant, unless offered, in the first instance, in answer to the plaint. Nor shall any appeal from the order of the *zillah* or city judge, in such cases, be open to the provincial court, unless preferred within one month after the order appealed from is passed, or unless sufficient reason be assigned, to the satisfaction of the provincial court, why it was not preferred within that period.

Petitions of appeal from an order passed on this subject by *zillah* or city judge where to be presented; and *zillah* or city judge how to proceed, if the same be presented to him.

Second. The petition of appeal from the order of a *zillah* or city judge, declaring a suit admissible or not admissible, in a *zillah* or city court, may be presented, at the option of the appellant, either to the court passing the order appealed from, or to the provincial court of the division; and in the former case, the *zillah* or city judge shall immediately transmit the petition, with all papers and proceedings relative thereto, for the determination of the provincial court; till the receipt of which no further proceedings upon the cause shall be held in the *zillah* or city court.

What part of the usual fees to be paid on these appeals, and by whom.

Third. No institution fee shall be demandable upon the summary appeals referred to in this section. And the provincial courts shall award to the pleaders employed therein such proportion of the established fees for pleaders, not exceeding one-fourth, as may appear adequate to the service performed by them; to be paid by the party who may have misrepresented the cause of action.

V. *First.* In suits which may be instituted in the provincial court, if the plaintiff shall state his cause of action to exceed five thousand sicca rupees, and the defendant shall, in answer, deny such statement, and allege the produce, amount, or value, to be such as to render the suit cognizable by the *zillah* or city court, in the first instance; the provincial court shall cause such inquiry to be made, as may appear necessary, to ascertain whether the suit be cognizable in the *zillah*, city, or provincial court, under the provisions of this regulation; and the determination of the provincial court, upon this point, shall be final. Provided, that no such objection to the plaintiff's statement of the cause of action shall be received from the defendant, unless offered, in answer to the plaint, in the first instance.

Disputes between parties, respecting any cause instituted in a provincial court being cognizable or not in the first instance by that court, how and under what rules to be decided.

Second. In the cases provided for in this section, if the provincial court determine that the suit is cognizable in the *zillah* or city court, the institution fee paid by the plaintiff shall be returned to him; and he shall be left to institute his suit, *de novo*, in the *zillah* or city court. If any pleaders shall have been employed in the provincial court, that court shall adjudge to them such proportion of the established fee, not exceeding one-fourth, as they may judge adequate; to be paid by the plaintiff.

If decided to be cognizable by a *zillah* or city court; to be instituted, *de novo*, in such court.

VI. *First.* Any regular suits of the nature specified in Section 2, which may have been already instituted in any *zillah* or city court, and, the pleadings and evidence having been completed, may be ready for decision, shall be determined in such *zillah* or city court, notwithstanding the present regulation. But the proceedings and papers upon any other regular suits of the description mentioned in Section 2, which may be depending in any *zillah* or city court on the promulgation of this regulation, shall be transmitted to the provincial court of the division; and the parties referred to that court, for the further prosecution and defence of the suits so removed. Provided, however, that if in any instance, upon the representation of the judge of a *zillah* or city court, or of a party in any cause now depending in a *zillah* or city court, the investigation of a suit, within the provisions of this regulation, though not completed, shall have been so far proceeded upon in the *zillah* or city court, as to make it desirable that judgment upon it in the first instance should be given in that court, it shall be competent to the provincial court of the division to order the same; and to the *zillah* or city judge to complete his proceedings, and decide upon such suit, in like manner as if this regulation had not been passed.

What suits, of the nature specified in Section 2, now depending in the *zillah* and city courts, to be decided by those courts.

What to be transmitted for decision to the provincial courts.

Second. In suits removed from the *zillah* or city courts to the provincial courts under this section, if the institution fee have been paid by the plaintiff in the *zillah* or city court, no additional institution fee shall be levied in the provincial court. And if any pleadings upon the cause have been delivered by the *vakeels* of the *zillah* or city court, the provincial court, on deciding the cause, shall make such partition of the established fee, between the pleaders of the two courts, as shall, in each case, appear equitable, on consideration of the duty performed by them respectively.

Rules respecting fees in causes removed from a *zillah* or city court to a provincial court.

Third*. *It is further hereby declared, in qualification of the existing rules, relative to fees of pleaders, that whenever the pleader originally entertained by a party may have commenced the pleadings, and prosecution or defence, of a suit, and from any cause not originating in the misconduct of such pleader, another pleader shall be employed in his stead, at the decision, or other termination of the suit, it shall be competent to the court, in which the suit is decided, or otherwise terminated, to adjudge to the pleader so employed at the commencement of the suit, (or if he be dead, to his heirs or legal representatives,) such part of the established fee, as on consideration of the service performed by him, and by his successors, he may appear entitled to.*

General rule relative to the fees of pleaders.

VII. The provisions in this regulation having reference only to regular suits, (such as those to which the rules contained in Regulations IV. 1793, VIII. 1795, and III. 1803, are applicable,) all summary suits authorized by the regulations, whether for recovering the possession of land or other property in cases of forcible dispossession under Regulations XLIX. 1793, XIV. 1795, and XXXII. 1803; or for the speedy realization of arrears of rent, under Regulations VII. 1799, V. 1800, and XXVIII. 1803; or for any other purpose in which a summary process is sanctioned by the regulations; shall be cognizable, as

The provisions of this regulation not applicable to summary suits of whatever amount.

* This clause is rescinded by Section 2, Regulation XXVII. 1814.

heretofore, in the *zillah* and city courts, whatever may be the produce, amount, or value, of the land, or other property, in dispute.

Rules in addition to those in force, for the guidance of provincial courts, with respect to taking depositions of witnesses.

VIII. The judges of the provincial courts are already empowered by the regulations, either to examine themselves the witnesses produced before them; or to authorize their registers to take the depositions of such witnesses, in the mode prescribed by Section 18, Regulation V. 1793, extended to Benares by Section 6, Regulation IX. 1795, and re-enacted for the ceded provinces by Section 18, Regulation IV. 1803. The judges of the provincial courts are further hereby empowered to employ their assistants, or any of their principal native officers, to take the depositions of witnesses, whom they may not have time to examine *vivâ voce* themselves; in like manner as the judges of the *zillah* and city courts are authorized by clause first, Section 21, Regulation XLIX. 1803, (re-enacted for the ceded and conquered provinces by clause third, Section 17, Regulation VIII. 1805;) and under the provision therein stated.

In what cases a provincial court may cause the evidence of a witness to be taken by the judge of the *zillah* or city where he resides.

In what manner to be taken.

IX. Whenever a witness, whose evidence is required by a provincial court, may reside at such a distance from the station of the provincial court, as to render his attendance at such station inconvenient; or when, from any cause, it may be deemed improper by the provincial court to summon a witness to that court; it shall be competent to the provincial court to cause the deposition of such witness to be taken by the judge of the *zillah* or city in which the witness may reside. In such cases the provincial court shall instruct the *zillah* or city judge upon what points the witness is to be examined; and the deposition shall be taken, in open court, in the presence of the parties, or their authorized pleaders, under the general rules prescribed for the examination of witnesses in the civil courts.

In what cases a provincial court may cause the evidence of a witness to be taken by one of the judges of circuit.

X. In cases, in which the provincial courts may judge it advisable, they are likewise empowered to cause the evidence of any witness to be taken, in the prescribed form, before the judge of the provincial court who shall next proceed upon the circuit to the *zillah* in which the witness may reside.

Modification of existing rules for staying the execution of decrees during appeal in causes for immovable property.

XI. *First.* Such part of the existing regulations, as directs that decrees appealed from, in cases of land, houses, or other immovable property, adjudged against the appellant, shall not be carried into execution during the appeal, provided the appellant give good and sufficient security for performing the decree which may be passed upon the appeal, in a sum equal to one year's produce of the property adjudged, is hereby modified, as follows:

Persons suing for such property, and obtaining a decree for it, to have possession notwithstanding an appeal, on giving prescribed security.

Second. Whenever a person claiming the proprietary right in land, houses, or other immovable property, not in his possession, shall obtain a decree, upon investigation of the merits of the case, (whether in a *zillah* or city court, or in a provincial court of appeal, before which the suit may be tried in the first instance,) adjudging him to be the proprietor of such land, houses, or other immovable property; he shall obtain possession thereof in execution of such decree, notwithstanding an appeal therefrom, provided he shall give good and sufficient security, for performing the decree which may be passed upon the appeal, in a sum equal to one year's produce of the property adjudged, if *malguzaree* land; or ten year's produce, if the land be *lakheraj*; or the computed value, if it be a house, or immovable property of any other description.

Unless the court to which the appeal is preferred, see cause for allowing the appellant to retain possession.

Third. Provided however, that if the court, to which the appeal may be preferred in such cases, shall, in any instance, see special cause for leaving the appellant in possession during the appeal, it shall be competent to that court to order the same; requiring, in such case, from the appellant, the same security as is above required to be given by the respondent.

Provision for cases of non-payment of revenue of disputed lands during an appeal.

Fourth. Provided further, that whether the appellant or respondent be left in possession of lands paying revenue to Government, during an appeal, if the party in possession of such lands shall neglect to pay the revenue due upon the assessment; and a public sale shall in consequence be ordered to take place; the party not in possession, by payment of the revenue due, and giving the prescribed security, previously to the sale, shall be put in immediate possession; and shall be entitled to charge the amount so paid, with interest thereupon, at the rate of one per cent. per mensem, in any adjustment of accounts which may be directed in the final decree upon the cause.

XII. *First.* The provisions contained in the preceding section not being applicable to the execution of decrees for money, or other movable property; such decrees shall be stayed, or enforced, in cases of appeal, according to the rules now established, with the following addition thereto.

Present rules for staying the execution of decrees during appeal, in causes for movable property, to remain in force, with following addition.

Second. The security to be given by appellants for staying the execution of decrees appealed from, in cases of money, or other movable property, or by respondents, when such decrees are carried into execution during an appeal, shall be sufficient, in addition to the amount or value adjudged, to cover the interest that may be expected to arise upon the amount payable under the decree, if confirmed in appeal, according to the provision for adjudging interest in such cases, made by Section 3, Regulation XIII. 1796, and Section 35, Regulation IV. 1803.

What security to be given by appellants in such causes.

XIII. The judges of the several courts, by which security may be taken from appellants or respondents, for performing the decrees to be passed on appeals, are enjoined to be particularly careful in ascertaining that the security received is good and sufficient; and they are required, in all cases, to cause the *naxir* or other officers, by whom the property of the sureties may be ascertained, to deliver in as accurate a statement as can be obtained of such property; with a full report of the inquiry made respecting it; informing him, at the same time, that he will be held responsible for any wilful misrepresentation in his statement or report.

Judges taking security in cases of appeal to be careful that it be good and sufficient.

Measures to be adopted for this purpose.

A. D. 1809. REGULATION IX.

A REGULATION *for empowering the Calcutta Provincial Court to receive Appeals from the Decisions of the Commissioner at Chinsurah and Superintendent of Chandernagore, in certain Cases; and to make further Provision for the Administration of Civil Justice at those Settlements.*—PASSED *by the Vice-President in Council, on the* 3*d October* 1809; *corresponding with the* 19*th Assin* 1216 *Bengal era; the* 10*th Assin* 1217 *Fussily; the* 20*th Assin* 1217 *Willaity; the* 9*th Assin* 1866 *Sumbut; and the* 22*d Shabaan* 1224 *Higeree.*

Preamble.

IN consequence of a recent arrangement made for executing the duties of the offices of commissioner at Chinsurah, and superintendent of Chandernagore, it has been deemed expedient to discontinue the office of deputy commissioner at the former settlement, and that of deputy superintendent at the latter. It is therefore necessary to make provision for the trial of civil causes between the native inhabitants, or in which a native is defendant, heretofore tried and determined by the deputy commissioner at Chinsurah, and deputy superintendent at Chandernagore, in the *cutcherree* or native court, subject to appeal to the commissioner and superintendent; and the following rules have been enacted by the Vice-President in Council for this purpose, to be considered in force, as soon as promulgated, in the settlements of Chinsurah and Chandernagore, respectively.

Part of Section 2, Regulation I. 1805, rescinded.

II. Clause second and third, Section 2, Regulation I. 1805, are hereby rescinded.

Native commissioners, to be appointed at Chinsurah and Chandernagore, and what causes to be tried by them.

III. *First.* One or more native commissioners shall be appointed at Chinsurah and Chandernagore, for the trial and decision of all causes of a civil nature between the native inhabitants, or in which a native may be the defendant, not exceeding in amount, or value, the sum of one hundred sicca rupees.

Establishment of native commissioners to be proposed to Sudder Dewanny Adawlut by commissioner and superintendent.

Second. On receipt of this regulation, the commissioner at Chinsurah, and superintendent at Chandernagore, shall propose to the court of Sudder Dewanny Adawlut, such establishment of native commissioners for the two settlements as may appear to him necessary, with his opinion whether it would be expedient to vest them respectively with original jurisdiction as *moonsiffs*; or to employ them as referees, with the powers vested in *sudder ameens* by Section 9, Regulation XLIX. 1803. He shall, at the same time, nominate for the confirmation of the Sudder Dewanny Adawlut, proper persons to fill the proposed office of *moonsiff*, or *ameen*, in conformity with the section above mentioned.

With opinion whether they should be vested with powers of *moonsiffs*, or *sudder ameens*.

Proper persons to be, at the same time, nominated for the office.

Third. The native commissioners appointed under this regulation, shall be guided by the rules in force for native commissioners of the same description, appointed under Regulations XL. 1793, and XLIX. 1803, as far as the same may be applicable to the settlements of Chinsurah and Chandernagore, with such local modifications, and additions, as may be sanctioned by the court of Sudder Dewanny Adawlut, upon a report from the commissioner and superintendent; who, on receipt of this regulation, shall frame and submit to the Sudder Dewanny Adawlut, such local rules for the guidance of the native commissioners at Chinsurah and Chandernagore respectively, as he may judge expedient.

By what rules the native commissioners are to be guided.

Local rules to be framed by commissioners and superintendent, and submitted to Sudder Dewanny Adawlut.

Appeal from all decisions of the native commissioners to the commissioner and superintendent.

IV. *First.* An appeal shall lie to the commissioner at Chinsurah and superintendent of Chandernagore, in his judicial capacity, from all decrees and orders passed by the native commissioners; provided that the appeal be preferred within three months; or if not preferred within this period, that sufficient reason be assigned for the delay.

In what cases the judgment of the commissioner and superintendent to be final.

Second. In such cases, as well as in all cases tried by the commissioner at Chinsurah, or superintendent at Chandernagore, in the first instance, wherein the amount or value adjudged, or disallowed by the decree of the commissioner, or superintendent, may not exceed the sum of one hundred sicca rupees, his judgment shall be final; unless the decree passed by him shall appear, on the face of it, erroneous, or unjust, or from the nature of the cause,

Subject only to a special appeal at the discretion of the Calcutta provincial court.

as stated in the decree, it shall appear of sufficient importance to merit a further investigation in appeal, in which case it shall be competent to the provincial court of appeal for the division of Calcutta, to admit a special appeal to that court.

In what cases a regular appeal lies to the Calcutta provincial court.

V. *First.* In all suits between the native inhabitants of Chinsurah, and Chandernagore, or in which a native may be the defendant, if the amount or value adjudged, or disallowed, by the commissioner or superintendent, shall exceed the sum of one hundred sicca rupees, and shall not be more than five thousand sicca rupees, an appeal from his judgment shall lie to the Calcutta provincial court of appeal, provided the appeal be preferred within three months after the appellant shall have been furnished with a copy of the decree appealed from; or if not preferred within this period, that sufficient reason be assigned, to the satisfaction of the provincial court, for the delay.

Decision of provincial court to be final, unless the Sudder Dewanny Adawlut see grounds for a special appeal to that court.

Second. In appeals to the provincial court under this section, the decision of that court shall be final, unless the court of Sudder Dewanny Adawlut shall be of opinion that there are special grounds for an appeal to that court, in which case it shall be competent to the Sudder Dewanny Adawlut to admit a special appeal.

In what cases an appeal from the decision of the commissioner and superintendent lies to the Sudder Dewanny Adawlut.

VI. In the suits referred to in the preceding section, viz. between the native inhabitants of Chinsurah and Chandernagore, in which a native may be the defendant, if the amount, or value, adjudged or disallowed by the commissioner or superintendent, shall exceed the sum of five thousand sicca rupees, an appeal shall lie to the court of Sudder Dewanny Adawlut, provided the appeal be preferred within three months after the appellant shall have been furnished with a copy of the decree appealed from; or, if not preferred within this period, that sufficient reason be assigned, to the satisfaction of the Sudder Dewanny Adawlut, for the delay.

Reservation of appeal to Sudder Dewanny Adawlut, in all cases tried and decided in the European courts of justice, as heretofore.

Provided the amount or value adjudged, or disallowed, exceed one hundred sicca rupees.

A special appeal only to lie in cases within the above limitation.

VII. An appeal to the court of Sudder Dewanny Adawlut shall also lie, as heretofore, under clause first, Section 2, Regulation I. 1805, in all suits of a civil nature instituted, heard, and determined in the first instance, in the European courts of justice, established at Chinsurah and Chandernagore; provided the amount or value adjudged, or disallowed, by the decree, or sentence, of the commissioner or superintendent, shall exceed the sum of one hundred sicca rupees. If the amount or value adjudged, or disallowed, shall not exceed one hundred sicca rupees, the judgment of the commissioner or superintendent shall be deemed final; unless the court of Sudder Dewanny Adawlut shall see cause for admitting a special appeal to that court, in which case it shall be competent to admit the same.

What provisions of Regulation I. 1805, applicable to Calcutta provincial court under present regulation.

Sections 11, 12, and 13, and Regulation XIII. 1808, also applicable to appeals under this regulation.

VIII. *First.* The provisions contained in Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12, Regulation I. 1805, relative to appeals receivable under that regulation by the court of Sudder Dewanny Adawlut, shall be considered equally applicable to appeals receivable under the present regulation, by the provincial court of appeal for the division of Calcutta.

Second. Sections 11, 12, and 13, Regulation XIII. 1808, relative to the execution of decrees appealed from, or staying the execution, and the security to be taken, in such cases, shall also be considered applicable to all appeals received under this regulation, whether by the Sudder Dewanny Adawlut, or by the Calcutta provincial court.

Rule for allowing fees to pleaders, when employed by the parties in such appeals.

Third. Whenever the parties in such appeals may appoint an established pleader or pleaders, to appear for them, either in the Sudder Dewanny Adawlut or the provincial court, under the option given by Section 5, Regulation I. 1805, it shall be at the discretion of the court to adjudge such compensation to the pleader, or pleaders, so employed, not exceeding the usual rate, as may appear reasonable and proper.

In what manner the provisions of this regulation are to be applied to depending appeals from decisions of the late deputy commissioner at Chinsurah, and deputy superintendent of Chandernagore.

IX. The provisions in this regulation shall be considered applicable to all depending appeals from the decisions of the late deputy commissioner at Chinsurah, and deputy superintendent of Chandernagore. If the amount or value adjudged or disallowed by the deputy be not more than one hundred sicca rupees, a final decree upon the case shall be passed by the commissioner, or superintendent, subject to a special appeal only to the Calcutta provincial court. If the amount or value adjudged or disallowed by the deputy, exceed the sum of one hundred rupees, and an appeal from his judgment be still depending, it shall be transferred to the Calcutta provincial court, or to the court of Sudder Dewanny Adawlut, as the appeal may be cognizable by the former, or the latter; under the standard established by Sections 5. and 6. of this regulation.

A. D. 1814. REGULATION V.

A REGULATION *for amending such Parts of the Regulations before enacted as relate to the Appointment of the Judges of the Provincial Courts of Appeal and Circuit.*—PASSED *by the Governor General in Council, on the* 19*th March* 1814; *corresponding with the* 7*th Chyte* 1220 *Bengal era; the* 13*th Chyte* 1221 *Fussily; the* 8*th Chyte* 1221 *Willaity; the* 13*th Chyte* 1871 *Sumbut; and the* 26*th Rubbee-ul-Awul* 1229 *Higeree.*

Preamble.

WHEREAS it is provided by the regulations before enacted, that the provincial courts of appeal and circuit shall consist each of three judges; and whereas experience has shewn that three persons are inadequate to the performance of the multifarious and laborious duties of those courts: and whereas it is expedient to make provision for the more regular, uniform, and expeditious trial of civil suits in those courts, and for the more prompt despatch of other business at the principal stations of the said courts, the following rules have been enacted; to be in force fromt he period of their promulgation, throughout the provinces immediately dependant on the presidency of Fort William.

Such former regulations as provide that the provincial courts shall be severally superintended by three judges, rescinded.

II. *First.* Such parts of Section 2, Regulation V. 1793; Section 2, Regulation IX. 1795; and Section 2, Regulation IV. 1803, and of any other rules as provide that the provincial courts shall be severally superintended by three judges, are hereby rescinded.

The several provincial courts to consist each of four judges.

Second. The provincial courts for the divisions of Calcutta, Dacca, Moorshedabad, Patna, Benares, and Bareilly, shall consist each of four judges; to be denominated the first, second, third, and fourth judges of those courts respectively.

The judges to exercise both civil and criminal jurisdiction.

Third. The judges of the abovementioned courts shall exercise both civil and criminal jurisdiction, under such rules as have been or may be established for their guidance in the discharge of those important functions.

The former rules which provide that the senior judge shall proceed in rotation on the circuit for the purpose of holding the half yearly jail deliveries, rescinded.

III. *First.* Section 8, Regulation I. 1806, and any other provisions which require that the senior judge of each division shall in future proceed in rotation on the circuit, for the purpose of holding the half yearly jail deliveries at the several stations, &c. are hereby rescinded.

The duties of circuit, including the jail deliveries at the principal stations, to be performed in regular succession, by the second, third, and fourth judges.

Second. The duties of the circuit, including the jail deliveries at the principal stations, shall in ordinary cases be performed in regular succession by the second, third, and fourth judges of the said courts; and the first judge shall remain fixed for the conduct of the public business at the principal station under such rules, as have been or may be established for that purpose; provided however, that nothing contained in this section, shall be construed to preclude the Governor General in Council, or the Nizamut Adawlut, from ordering the first judge to hold the session of jail delivery at the principal station, or at any other station or stations, whenever any exigency may, in the judgment of either of those authorities, appear to require the services of the first judge of either of the provincial courts in the discharge of such duty.

The senior judge to remain at the principal station for the conduct of the public business.

Proviso, in what cases the first judge may be ordered to hold the sessions.

A. D. 1826. REGULATION I.

A REGULATION *for augmenting the Number of Judges of the provincial Courts of Appeal and Circuit, as may from time to time appear necessary.*—PASSED *by the Governor General in Council, on the 2d March* 1826; *corresponding with the* 20*th Phagoon* 1232 *Bengal era; the* 8*th Phagoon* 1233 *Fussily; the* 21*st Phagoon* 1233 *Willaity; the* 9*th Phagoon* 1882 *Sumbut; and the* 22*d Rujub* 1241 *Higeree.*

Preamble.

WHEREAS it is enacted by clause second, Section 2, Regulation V. of 1814, that the provincial courts for the divisions of Calcutta, Dacca, Moorshedabad, Patna, Benares, and Bareilly, shall consist each of four judges: and whereas the heavy arrears of civil business in some of those courts render it expedient, that the number of judges should be occasionally increased, according as may, from time to time, appear necessary for the despatch of business, as well in the provincial courts of appeal, as in the courts of circuit; the following rules have been enacted, to be in force from the date of this regulation.

Parts of clause second, Section 2, Regulation V. 1814, rescinded.

II. *First.* So much of clause second, Section 2, Regulation V. of 1814, as limits the number of judges of provincial courts to four, is hereby rescinded.

The number of judges in each of the provincial courts of appeal and circuit, to be augmented when deemed necessary.

Second. It shall be competent to the Governor General in Council, to appoint as many judges in each of the provincial courts of appeal and courts of circuit, as may be deemed necessary for the due despatch of the business of those courts.

various characters and dispositions of those who may be employed in the immediate conduct of it, must continually operate to the important ends of compelling men to be just in their dealings; bringing into action that spirit of industry which is implanted in mankind, and which exerts itself in proportion as individuals are certain of enjoying the fruits of it; dispensing prosperity and happiness to the great body of the people; and increasing the power of the state, which must be proportionate to the collective wealth that by good government it may enable its subjects to acquire. As the basis of this system for the administration of justice, the Governor General in Council has lodged the powers specified in this regulation in the courts of *dewanny adawlut* established in the several *zillahs*, and in the cities of Patna, Dacca, and Moorshedabad, for the trial of civil suits in the first instance.

Courts of *dewanny adawlut* to be denominated after the *zillah* or city in which they are respectively established.

II. The courts of *dewanny adawlut*, or courts of judicature for the trial of civil suits in the first instance, established in the several *zillahs* in the provinces of Bengal, Behar, and Orissa, and in the cities of Patna, Dacca, and Moorshedabad, are to be denominated after the *zillah*, or the city, in which they are respectively established, as follows.

The court of *dewanny adawlut* established in the *zillah* of	Nuddea,	is to be denominated the court of *dewanny adawlut* for the *zillah* of	Nuddea.
	Beerbhoom,		Beerbhoom.
	Burdwan,		Burdwan.
	Midnapore,		Midnapore.
	Twenty-four Pergunnahs,		Twenty-four Pergunnahs.
	Jessore,		Jessore.
	Moorshedabad,		Moorshedabad.
	Boglepore,		Boglepore.
	Rajshahee,		Rajshahee.
	Purneah,		Purneah.
	Dinagepore,		Dinagepore.
	Rungpore,		Rungpore.
	Cooch Behar,		Cooch Behar.
	Sylhet,		Sylhet.
	Dacca Jelalpore,		Dacca Jelalpore.
	Mymensing,		Mymensing.
	Tipperah,		Tipperah.
	Chittagong,		Chittagong.
	Behar proper,		Behar proper.
	Shahabad,		Shahabad.
	Sarun,		Sarun.
	Tirhoot,		Tirhooot.
	Ramgur,		Ramgur.
The court of *dewanny adawlut* established at the city of	Moorshedabad,	is to be denominated the court of *dewanny adawlut* for the city of	Moorshedabad.
	Dacca,		Dacca.
	Patna,		Patna.

Each *zillah* and city court to be superintended by one judge.

Oath to be taken by the judges of the *zillah* and city courts.

III. Each *zillah* and city court is to be superintended by one judge, who, previous to entering upon the execution of the duties of his office, is to take and subscribe the following oath before the Governor General in Council, or any person whom he may commission to administer it. "I A. B. appointed judge of the *dewanny adawlut* of the *zillah* (or city) of ————————, solemnly swear, that I will administer justice conformably to the regulations that have been or may be passed by the Governor General in Council, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any present or *nuzzer*, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the court of which I am appointed judge; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or *nuzzer*, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or have been decided in the court; that I will render a true and faithful account of all sums of money that may be paid into the court, or disbursed from it;

that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions in Bengal for the purpose of remitting money to Europe, nor in any commercial transactions; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do or may authorize me to receive. So HELP ME GOD."

Special jurisdiction of the *zillah* courts.

IV. The special jurisdiction of the *zillah* courts, is to extend throughout the districts and places that are or may be included in the *zillahs* in which they are respectively established, with this exception, that the courts in the *zillahs* of Moorshedabad, Dacca Jelalpore, and Behar proper, are not to have any jurisdiction within the limits of the special jurisdiction of the courts for the cities of Moorshedabad, Dacca, and Patna. The special jurisdiction of the courts of *dewanny adawlut* for the cities of Moorshedabad, Dacca, and Patna, is to extend over those cities, and the places adjacent, which are or may be included in the limits of their respective jurisdictions.

Jurisdiction of the three city courts.

Courts to be held in a large room three days in every week, or oftener if necessary. Judges to inform the Sudder Dewanny Adawlut whenever they may be prevented holding a court as often as is herein required.

No act to be done but on court days, and in open court.

V. The *zillah* and city courts are to be held in a large and convenient room in the city or place at which they are respectively established, three days in every week, or oftener, if the state of the business shall render it necessary. Whenever the judge of a *zillah* or city court, from indisposition or other cause, shall be prevented holding a court three days in each week as above required, he is at the expiration of the week, to report the cause of the court not being so held to the Sudder Dewanny Adawlut. This report is not to be made when the court may be shut pursuant to orders from the Sudder Dewanny Adawlut under Section 23, Regulation VI. 1793. No rule, order, proceeding, or decree, is to be made, but on court days, and in open court.

Seals of the courts.

Seal to remain in the custody of the judge.

VI. The *zillah* and city courts are to use a circular seal, one inch and three quarters in diameter. The seals of the *zillah* courts in the provinces of Bengal and Orissa, and the courts for the cities of Dacca and Moorshedabad, are to bear an inscriptiou to the following effect in the Persian and Bengal characters and languages. The seals of the *zillah* courts in Behar, and the court for the city of Patna, are to have a similar inscription in the Persian language and character, and the Hindoostanee language and Nagree character. "The seal of the *dewanny adawlut* of the *zillah* (or city) of ————————." The seal of each court is to remain in the custody of the judge.

Zillah and city courts to have jurisdiction over all persons not British subjects.

Of what suits the *zillah* and city courts are to have cognizance, when the defendant comes under any of the descriptions of persons mentioned in Section 7.

VII. All natives, and other persons not British subjects, are amenable to the jurisdiction of the *zillah* and city courts.

VIII. The *zillah* and city courts respectively, are empowered to take cognizance of all suits and complaints respecting the succession or right to real or personal property, land-rents, revenues, debts, accounts, contracts, partnerships, marriage, caste, claims to damages for injuries, and generally, of all suits and complaints of a civil nature in which the defendant may come within any of the descriptions of persons mentioned in Section 7, provided the landed or other real property to which the suit or complaint may relate, shall be situated, or, in all other cases, the cause of action shall have arisen, or the defendant at the time when the suit may be commenced shall reside as a fixed inhabitant, within the limits of the *zillah* or city over which their jurisdiction may extend.

British subjects, with certain exceptions, not to be permitted to reside at a greater distance from Calcutta than ten miles, unless they execute the bond prescribed in Regulation XXVIII. 1793.

IX. The *zillah* and city courts are to have jurisdiction over all British subjects, (excepting king's officers serving under the presidency of Fort William, and the covenanted civil servants of the Company, and their military officers,) so far, as not to allow them to reside, or take up their abode, within their respective *zillahs* or cities, at a greater distance from Calcutta than ten miles, unless they execute the bond prescribed in Regulation XXVIII. 1793, to render themselves amenable to the court in all suits of a civil nature that may be instituted against them by natives, or other persons described in Section 7, in which the amount claimed may not exceed five hundred sicca rupees.

Collectors of the revenue and customs, commercial residents, salt agents, mint and assay masters, and their respective officers, amenable to the courts for acts done in their official capacity.

X. Collectors of the revenue, and their assistants and native officers, commercial residents and agents, and their assistants and native officers employed in the provision of the investment, salt agents, and their assistants and native officers concerned in the manufacture of salt, the collectors of the customs, and their assistants and native officers employed in the collection of the customs, the mint and assay masters, and their assistants and native officers, are

are declared amenable to the *zillah* or city court in the jurisdiction of which they may reside, or carry on the public business committed to their charge, for any acts done in their official capacity, in opposition to any regulation printed and published in the manner directed in Regulation XLI. 1793.

Individuals how to proceed, who may consider themselves aggrieved under the regulations by any special order of Government, or the Boards of Revenue or Trade.

Government to be considered as the defendant.

Complainant to present a petition to the judge.

What the petition is to contain.

XI. If a native, or any other person not being a British subject, shall consider himself aggrieved under any regulation printed and published in the manner directed in Regulation XLI. 1793, by an act done by any of the officers of Government described in Section 10, pursuant to a special order originating with the Governor General in Council, or the Board of Revenue or of Trade, the officer by whom the act may be done is not to be liable to be sued for it. In such cases, Government is to be considered as the defendant, and the person deeming himself aggrieved, is to present a petition to the judge of the *dewanny adawlut* of the *zillah* or city to which the officer by whom the act complained of may have been done, shall be amenable in his public capacity, stating wherein he considers himself injured under the regulations, and praying, that the Governor General in Council will order the court of *dewanny adawlut* in which the cause may be cognizable, to try the points or matters contested agreeably to the regulations. The judge to whom the petition may be presented, is to forward it immediately to the Governor General in Council, who, provided he shall not think it proper to afford the redress that may be solicited by the petitioner, and the courts of justice shall be competent to try the cause, will direct the court in which it may be cognizable to proceed to the trial of it. If the Governor General in Council shall order the cause to be tried, the court is immediately to send a written notification of the order to the complainant, and the cause is to be considered as filed in the court from the date of the notification. The court is then to proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals. The officer by whom the act complained against may have been done, is to carry on the suit under the directions of the Governor General in Council, or the Board of Revenue or of Trade, according to the immediate authority under which he may have acted, and is to issue the necessary instructions to the *vakeel* of Government in the court in which the suit may be instituted, or subsequently carried in appeal. In the event of Government being cast in any of the courts, the officer entrusted with the management of the suit, is to send a copy of the decree and proceedings of the court to the Governor General in Council, or to the Board of Revenue or of Trade, according to the immediate authority under which he may have acted, with a letter stating any objections that he may have to offer to the decision. The Boards above mentioned are to submit all such decrees and proceedings to the Governor General in Council, with their opinion respecting them. The Governor General in Council will order an appeal from the decisions that may be transmitted to him under this section, to be preferred or not, as may appear to him advisable. The costs and damages that may be awarded against Government in suits instituted under this section, are to be defrayed from the public treasury. All special rules respecting cases of the nature of those described in this section, are to be duly attended to by the plaintiff, and the Boards and officers concerned in them.

Judge to transmit the petition to the Governor General in Council.

How he is to proceed with the petition.

If he shall order the cause to be tried, the order to be notified to the party, and the cause to be considered as filed from the date of the notification.

Court how to try the cause.

Officer by whom the act may have been done, to carry on the suit on the part of Government.

Officer how to proceed, in the event of Government being cast in any of the courts.

All special rules respecting cases of the nature of those described in this section, to be observed by the parties.

XII. If a suit shall have been instituted in the court of *dewanny adawlut* of any *zillah* or city in which it may have been cognizable, no other *zillah* or city court is to entertain a suit for the same cause of action; and on proof being made in the court in which the second suit may be commenced, that a prior suit for the same cause of action has been instituted in another *zillah* or city court competent to try it, the court in which the second suit may be brought, is to dismiss it with costs, to be paid by the party so suing. And if any person shall have commenced a suit in the *dewanny adawlut* of any *zillah* or city, and whilst that suit is depending, or after a decree may be passed in it, shall commence another suit in any other *zillah* or city court of *dewanny adawlut* for the same cause; or if any person shall commence a suit in any *zillah* or city court of *dewanny adawlut*, which shall appear to the judge to be frivolous, vexatious, or groundless, he is not only to dismiss the suit, with such costs as he may deem it equitable to award against the plaintiff, but he is to fine him in such amount as he may think proper, upon a consideration of the nature of the case, and the situation and circumstances in life of the offender, and commit him to close custody until he pays the fine.

No court is to receive a suit previously instituted in another court in which it may be cognizable. Court in which the second suit may be instituted, to dismiss it with costs, to be paid by the party suing.

Further penalty for instituting such second suits, either whilst the first suit is depending, or after a decree is passed. Penalty for the institution of frivolous, vexatious, or groundless suits.

XIII.

XIII. The *zillah* and city courts are not to pass a decree in any suit concerning the succession or right of inheritance to a *zemindaree*, *talook*, land, house, or other real property to which there are more claimants than one, who by the Hindoo or Mahomedan law (respect being had to the religion of the claimants) would be entitled to a portion of the property, excepting the property be by the decree adjudged to all the claimants in the proportions to which they may be respectively entitled.

Decrees for real property to specify the shares of all the claimants.

XIV. The *zillah* and city courts are prohibited hearing, trying, or determining, the merits of any suit whatever, against any person or persons, if the cause of action shall have arisen previous to the 12th of August 1765; or any suit whatever against any person or persons, if the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it; unless the complainant can shew, by clear and positive proof, that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money; or that he directly preferred his claim within that period for the matters in dispute, to a court of competent jurisdiction to try the demand, and shall assign satisfactory reasons to the court why he did not proceed in the suit; or shall prove that either from minority, or other good and sufficient cause, he had been precluded from obtaining redress.

Courts not to try the merits of any suit, where the cause of action shall have arisen before the 12th August 1765. Nor any suit where the cause of action shall have arisen twelve years before a suit shall have been commenced for it. Exception to the rule.

XV. The *zillah* and city courts are prohibited decreeing the payment or satisfaction of any sum due on a *tumassook* or bond, which may have been entered into after the 28th March 1780, unless the bond shall be proved to have been executed in the presence of two credible witnesses, or the payment of the sum demanded on the bond, or some other valuable consideration for it having been received, shall be proved to the satisfaction of the court. But the restriction contained in this section, is not to extend to any bills of exchange, receipts, or notes of hand, in the determination on which the custom of the country is to be abided by.

Decrees not to be given for sums of money on bonds which may not have been executed in the presence of two credible witnesses, unless the sum or a valuable consideration shall be proved to have been given. Cases to which this restriction is not to extend.

XVI. The *zillah* and city courts are prohibited entertaining any cause, which, from the production of a former decree, or the records of the court, shall appear to have been heard and determined by any former judge, or any superintendent of a court having competent jurisdiction. If any doubt should arise respecting the competency of the former jurisdiction, the judges are to report the circumstances to the Sudder Dewanny Adawlut, and wait the instructions of that court.

Judges not to entertain suits which may have been decided by any former judge or superintendent having competent jurisdiction. Doubts respecting the competency of the former jurisdiction, to be submitted to the Sudder Dewanny Adawlut.

XVII. The *dewanny adawlut* of the *zillah* of the Twenty-four Pergunnahs, is not to receive or entertain any suit, under any pretence whatever, relating to any land, house, tenement, or hereditament, nor any dispute regarding the boundaries of lands, houses, tenements, or hereditaments, situated within the town of Calcutta, (which, for the purpose of this rule, is declared to be bounded by a line drawn by the bridge and *nullah* of the Baug-bazar or Cow-cross, the Mahrattah entrenchment, and the road adjoining to it continued to the westward of the Kaleeghaut road, the Govindpore *nullah*, and the river,) nor any suit whatever against a person who may be an inhabitant of Calcutta at the time the suit may be instituted, or may become a resident within the limits of the town after the suit may be commenced. The court is commanded not to intermeddle with, or take cognizance of the suits above mentioned, which are to be considered entirely exempt from its jurisdiction. But the prohibitions contained in this section, are not to be construed to extend to preclude the court of *dewanny adawlut* of the *zillah* of the Twenty-four Pergunnahs, entertaining any suit concerning marriage or caste, in which no money or other valuable thing may be demanded or decreed, although the cause of action shall have arisen, or the defendant may reside, or shall have resided at the time the suit commenced, within the limits of the town of Calcutta.

Of what suits the *zillah* court of the Twenty-four Pergunnahs is prohibited taking cognizance, as coming within the jurisdiction of the Supreme Court of judicature. Exception to the rule.

Exception to the rule.

XVIII. The *zillah* and city courts are prohibited interfering in any respect in any cause or matter of a criminal nature, declared cognizable by the magistrates of the several *zillahs* and cities, the courts of circuit, or the Nizamut Adawlut, or any other courts for the trial of cases of a criminal nature, that now exist, or which may be hereafter established, excepting for contempt and perjuries committed in open court, as prescribed in Sections 14 and 21, Regulation IV. 1793.

Courts prohibited taking cognizance of any matters of a criminal nature.

Exceptions to the rule.

XIX. The judges of the *zillah* and city courts, are prohibited corresponding by letter with parties in suits, process, or matters, depending before them, or coming within their

Zillah and city courts prohibited corresponding with parties in suits, or

any person, respecting matters cognizable in the courts.

cognizance. If a party in a suit, or a person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he is either to appear in the court in person and represent the matter in writing, or make the representation in writing through an authorized *vakeel*. The court is to pass whatever order upon the representation may appear to it proper, consistently with the regulations, and to direct a copy of the order to be delivered to the person making the representation, or to his *vakeel*, under the seal of the court, and attested by the register.

Judges of the *zillah* and city courts prohibited corresponding with the provincial courts.

The judges of the *zillah* and city courts, are also prohibited corresponding by letter with the provincial courts of appeal respecting any cause or matter before those courts, or upon any matters whatever on which they may not be specially empowered so to correspond. When a judge shall have occasion to communicate to the provincial court any information that may be required from him by the court, or which he may deem it necessary to submit to the court, respecting any matter or cause that may be before it, he is to certify it to the court by a writing under his official seal and signature.

An appeal to lie to the provincial courts of appeal from the decisions of the *zillah* and city courts in all cases whatever.

XX. An appeal is to lie to the provincial courts of appeal under Regulation V. 1793, from the decisions of the courts of *dewanny adawlut* of the several *zillahs*, and the cities of Patna, Dacca, and Moorshedabad, in all suits or matters whatsoever; and the judges of the *zillah* and city courts are invariably to state in every decree the grounds on which they may pass it.

Judges to act according to justice, equity, and good conscience in cases for which no specific rules exist.

XXI. In cases coming within the jurisdiction of the *zillah* and city courts for which no specific rule may exist, the judges are to act according to justice, equity, and good conscience.

A. D. 1793. REGULATION IV.

A REGULATION *for receiving, trying, and deciding Suits or Complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad.*—PASSED *by the Governor General in Council on the* 1*st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

THE following rules are enacted for receiving, trying, and deciding, suits or complaints declared cognizable in the courts of *dewanny adawlut* established in the several *zillahs*, and in the cities of Patna, Dacca, and Moorshedabad.

Only plaintiffs or defendants, or their *vakeels* duly empowered, to be allowed to prefer or defend a suit. No other persons, excepting the witnesses of the parties, to be heard *viva voce* in a cause.

II. No complaint is to be received but from the plaintiff, nor any answer to a complaint, but from the defendant, or their respective *vakeels* duly empowered. Nor is any person to be permitted to do any act, or to be heard *vivâ voce* in any stage of a cause, excepting the plaintiff or defendant, or their *vakeels* or witnesses.

What a complaint preferred to a *zillah* or city court is to contain. If it is for *malguzaree* or *lakheraje* land, the annual produce is to be specified. What is meant by the annual produce. If for any other property or money or damages, the amount or value, or the sum in which the party may be endamaged, is to be specified. Complaint to specify the name of the defendant and when it arose, and to be signed by the party or his *vakeel*.

III. Every complaint that may be presented to the court of *dewanny adawlut* of any *zillah*, or of either of the cities of Patna, Dacca, or Moorshedabad, is to state precisely the matter of complaint. If it be concerning a *zemindaree* or an independent or a dependant *talook*, or any landed property being *lakheraje* (exempt from the payment of revenue to Government), or *malguzaree* (subject to the payment of revenue to Government), it is to state the amount of the annual produce of the land according to the most accurate estimate which the claimant may be able to procure. To obviate all doubt respecting what is meant by the annual produce of *lakheraje* and *malguzaree* lands, it is declared to be the aggregate of the sums that may have been paid under the regulations by the dependant *talookdars*, under-farmers and *ryots*, on account of the year in which the claim may be preferred, and that would be payable by them were the claimant to be put into possession of the lands during that year. If the complaint is for a house, garden, tank, or any real property not being *malguzaree* or *lakheraje* land, or any valuable thing, or relating to marriage or caste, or for damages for any injury, it is to state according to the nearest estimate the exact sum of money, or the amount in which the plaintiff may be endamaged. The complaint is also to specify the name of the person complained against, the time when the cause of action arose, and is to be signed by the complainant, or his *vakeel* duly authorized. The complaint is to be signed and numbered, and dated in the order in which it may be received, by the judge of the court, and is to be registered in a book by a native officer of the court, whose particular duty is to be made, to copy and register complaints. Every complaint, answer, reply, and rejoinder, is to be written in the Persian or the Bengal language and character, or in the Hindoostanee language and Nagree character, and no other, and the parties are to be permitted to deliver their pleadings in which ever of those languages and characters they may think proper.

Judge to sign, number and date, the complaint.

Complaint to be entered in a book by a native officer.

In what language the complaint, answer, reply, and rejoinder are to be written.

IV. That no doubt may be entertained respecting what suits decided in the provincial courts of appeal are appealable to the Sudder Dewanny Adawlut, it is directed, that if a suit shall be instituted in any *zillah* or city court, and the cause of action shall be stated by the plaintiff

Defendant to insert in his answer, his objections to the plaintiff's statement of the cause of action;

otherwise the statement is to be held correct, so far as to determine whether the cause is or is not appealable to the Sudder Dewanny Adawlut.

plaintiff to be such as would make it appealable to the Sudder Dewanny Adawlut, or such as would not entitle either party to an appeal to that court, in the event of the suit being appealed to the provincial court of appeal, and either party being dissatisfied with the decision of that court; the defendant, in the first case, if he shall be of opinion that the cause is not appealable, and in the second, if he shall think it appealable, is to insert his objections to the plantiff's statement in his answer, and the judge is to make such enquiries as he may deem necessary, to ascertain whether the cause of action is such as would or would not render it appealable to the Sudder Dewanny Adawlut, and to insert his decision on the objections of the defendant in the record of the trial, which the court of appeal, in the event of the cause being brought before them, are to confirm or set aside, as may appear to them proper. If the defendant shall not offer any objections in either of the cases above mentioned to the plaintiff's statement of the cause of action, it is to be held correct, so far as to determine eventually whether it is or is not appealable to the Sudder Dewanny Adawlut; and any objections which either party may afterwards offer to the statement are not to be attended to; but if, agreeably to the statement, the cause of action shall be appealable, an appeal is to be allowed (all rules regarding appeals being duly observed), and if be not appealable, an appeal is not to be admitted.

Court how to proceed upon a complaint cognizable by it being preferred to it. To issue a summons. Contents of the summons.

V. Upon any person, either by himself or his *vakeel* duly appointed, preferring a written complaint on account of any matter declared cognizable by the *zillah* or city courts of *dewanny adawlut*, to the proper *zillah* or city court, the court is to issue a summons to the defendant, which is to contain a short account of the nature of the demand, and to require the defendant either to accompany the officer who may be deputed to serve the summons, to appear in person before the court, or to deliver to him good and sufficient security to appear and answer to the complaint on the day appointed, either in person or by *vakeel*. The person who may become a security for the appearance of the defendant, is further to bind himself to be responsible for the personal attendance of the defendant whenever it may be required by the court, and in the event of his not being able to produce him, either whilst the suit is depending, or at any time before the final decree in the cause is executed, to be answerable for such sum as may be adjudged against the defendant. The summons is to be served on the defendant by the *nazir* or his inferior officer if he can be found, and in the event of his not giving the required security, the *nazir* or officer is to take his person into custody, and bring him before the court. The *nazir* is to return the summons on the day appointed, with an endorsement specifying in what manner he has executed it. If the defendant shall appear either in person or by *vakeel*, the court is to fix a day according to its discretion for him to answer to the complaint, and, if it shall deem it reasonable so to do, may at any time allow the defendant a further period for delivering his answer; and if the defendant shall appear in person, and shall not have given the security above mentioned for his appearance and attendance, the court is to require him to give it; and in the event of his refusing or omitting to comply with the requisition, he is to be committed to close custody until he shall have given the security, or performed the decree of the court. When the defendant has delivered in his answer to the complaint, the plaintiff is to reply to it on the next court day, but he is not to be permitted to introduce in his reply any matter whatever which may not be contained in his complaint, but is either to acknowledge the answer of the defendant to be true, or simply and shortly deny the truth of such of the facts in the answer as he intends to dispute, or simply deny the truth of all the facts contained in it, or the competency of the answer. The defendant is to rejoin to the reply on the same day, but is not to be permitted to introduce in his rejoinder any matter not contained in his answer, but is simply to deny the truth of the reply of the plaintiff, or the parts of it which he means to dispute, and aver the truth or competency of his own answer; and no further pleadings whatever are to be admitted in the cause. But if, from mistake, inadvertence, or other cause, the plaintiff shall have omitted to insert in his complaint any thing material to the suit, the court, on the omission being represented either by the plaintiff or his *vakeel*, is to allow the plaintiff to prefer a supplemental complaint, in which he is to state the matter omitted. The defendant is to be allowed to deliver an answer to the supplemental complaint on a day to be fixed for that purpose; and the plaintiff and defendant are to reply and rejoin in the same manner as on the original complaint, but no other. In like manner, if the defendant, from mistake, inadvertence, or other cause, shall have omitted to insert in his

Nazir to return the summons on the fixed day, with an endorsement how it has been executed.

Upon the defendant appearing, court to fix a day for his answering, and to take security for his attendance. Defendant to be committed to custody in the event of his not giving the required security. Plaintiff to reply to the defendant's answer. What the reply is, and what it is not, to contain.

Defendant to rejoin to the plaintiff's reply. What the rejoinder is, and what it is not, to contain.

Cases in which the plaintiff is to be permitted to prefer a supplemental complaint.

Defendant to be allowed to deliver an answer to the supplemental complaint.

Plaintiff and defendant to be permitted to reply and rejoin. Cases in which the de-

answer any thing material to his defence, the court, upon his representing the omission either in person or by his *vakeel*, is to permit the defendant to deliver in a supplemental answer. The plaintiff and defendant are to reply and rejoin in the same manner as on the original answer. But no more than one supplemental complaint, or one supplemental answer, is to be received by the court. Whenever a defendant shall refuse or neglect to rejoin at the time appointed for that purpose, the register is to enter a rejoinder for him, and the court is to proceed in the trial in the same manner as if the defendant himself had rejoined.

fendant is to be allowed to deliver a supplemental answer. Plaintiff and defendant to reply and rejoin. Only one supplemental complaint or answer to be admitted. Register to rejoin, if the defendant does not rejoin by the appointed day.

VI. When the rejoinder has been filed, the court, either immediately, or on a fixed day (eight days notice of which is to be given to the parties) as soon after the pleadings are closed as the business of the court will permit, is to examine the truth of the complaint or claim by the oaths of the parties, if they mutually consent to that mode of examination, and of the witnesses who may be produced by them, if they have any witnesses to produce. To procure the attendance of witnesses, the *zillah* and city courts, on the requisition of the plaintiff or defendant, or their respective *vakeels*, are to issue a summons to the witnesses whom the parties may name, (provided they be not Hindoo or Mahomedan women of a rank or quality, which, according to the manners and customs of the country, would render it improper to compel them to appear in a court of justice,) specifying at whose request the summons may have been issued, and requiring them to appear in the court on a day to be named in the summons, and there to depose concerning the matter in dispute between the parties. If a witness so summoned shall not attend on the day appointed, or attending, shall refuse to give evidence, or to subscribe his deposition as hereafter required, the judge, in the first case, if it shall be proved to his satisfaction on oath that the witness was material to the cause, is to issue an order to the *naxir* to seize and bring the witness before the court, and is to impose on such witness not having attended, or refusing to give evidence, a fine not exceeding five hundred rupees, and to commit him to close custody until he shall consent to give his evidence and sign his deposition. If a witness who may attend pursuant to a summons, shall have incurred any expence in consequence of his being required to appear, the court is to award to him such sum for his charges as may appear to it reasonable, whether he be examined or not. If the sum so awarded shall not be paid immediately, or secured to the witness to the satisfaction of the court, the party at whose requisition the witness may be summoned is not only to lose the benefit of his testimony, but the court, after the decree in the cause shall be passed, it to confine such party until he shall discharge the sum awarded to the witness. The *zillah* and city courts are to administer to parties consenting to be examined on oath, and to witnesses, such oaths as may be considered most binding on their consciences, according to their respective religious persuasions. But if a witness shall be of a rank or caste, which according to the prejudices of the country would render it improper to compel him to take an oath, the judge of the court may dispense with his being sworn, provided he shall subscribe one of the undermentioned declarations, according as he may be of the Mahomedan or Hindoo persuasion.

When the courts are to proceed to the examination of the merits of the suit.

How the attendance of the witnesses of the parties is to be procured, provided they be not women of the rank or caste herein mentioned. What the summons is to contain.

How witnesses so summoned are to be dealt with, if they shall not appear, or if they shall appear and refuse to give evidence or subscribe their depositions.

Court empowered to award to witnesses appearing pursuant to the summons, such sum for their expences as may appear to it reasonable.

Expence to be paid by the party summoning the witness.

Consequences attending his not paying such expence as required, and the court how to enforce the payment.

What oath are to be administered to parties or witnesses. Cases in which the courts may dispense with the oaths of witnesses.

Declaration to be subscribed by a Hindoo witness exempted from taking an oath.

"I will faithfully answer according to the truth, such questions as may be put to me by the court in the cause now before the court; I will not declare any thing not warranted by the truth; if I declare any thing not warranted by the truth, I shall be deserving of punishment from Eeshwur."

Declaration to be signed by a Hindoo witness exempted from taking an oath.

Declaration to be signed by a Mahomedan witness exempted from taking an oath.

Declaration to be signed by a Mahomedan witness exempted from taking an oath.

"I sincerely promise and swear, in the presence of Almighty God, that I will, faithfully and without partiality, answer according to the truth, any questions that may be put to me by the court respecting the cause now before the court." After the witness has given his deposition, he is to subscribe the following declaration. "I swear, in the presence of Almighty God, that I have faithfully and without partiality answered according to the truth the questions put to me by the court respecting the cause now before the court." The depositions of the witnesses who may subscribe the above declarations are to be received as good evidence in the cause, in the same manner as if they had been sworn. The deposition of every witness who may appear in court, is to be taken *vivâ voce* in open court, and (if he be a native) in the Persian, Bengal, or Hindoostanee language, and is to be reduced into writing in the Bengal, Persian, or Nagree character, according as the witness may desire.

Depositions of witnesses subscribing the above declarations to be received as good evidence. Depositions of witnesses to be reduced into writing in the language and character which they may desire. Ex-

hibits and written evidence to be produced in open court at the trial. Such exhibits and evidence, if disputed, to be duly proved by witnesses, whose depositions are to be reduced to writing. Exhibits how to be marked and referred to in the depositions proving them. Exhibits proved by witnesses not present in court, to be marked and referred to in the same manner, and the date on which they may be read in court is to be endorsed upon them.

Court may dispense with the personal appearance of Hindoo or Mahomedan women of a certain rank. How the evidence of such women is to be obtained.

Manner in which the judge is empowered to obtain the evidence of witnesses residing out of the jurisdiction of the court, and at a greater distance from it than fifty *coss*.

Personal attendance of parties or witnesses residing out of the jurisdiction of the court, and at a greater distance than fifty *coss*, how to be procured if necessary.

Judge how to proceed, in the event of his rejecting exhibits or written evidence that may be offered.

When the court is to give judgment.

Decree of the court how to be executed.

The deposition is to be subscribed by the witness with his name or mark. Every exhibit or written evidence (excepting exhibits that may be proved by such absent witnesses as are hereafter mentioned) is to be produced in open court at the trial, and if disputed, is to be duly proved by the examination of witnesses sworn as above directed, whose depositions are in the same manner to be reduced into writing and signed. Every exhibit is to be marked with some letter or number to identify it, and the letter or number is to be referred to in the deposition proving it. All exhibits proved by witnesses not present in court are in the same manner to be marked and referred to in the depositions proving them, and are to be endorsed and minuted as having been read at the time they may have been read in the court. In the event of any witness being a Hindoo or a Mahomedan woman of a rank or quality, which, according to the customs and manners of the country, would render it improper to compel her to appear in a court of justice, the *zillah* and city courts of *dewanny adawlut* are authorized to commission three creditable women, who are to be sworn to execute the commission truly and faithfully, to administer either an oath, or the prescribed declaration to persons of the rank, caste, or quality before mentioned, (according to the discretion of the judge and the religion of the witnesses,) and to examine them on written interrogatories to be delivered to them by both parties or their *vakeels*, if both parties shall desire to examine the witnesses. In like manner, if any witness whose deposition may be necessary to the determination of a cause, shall reside out of the jurisdiction of the *zillah* or city court in which the suit may be instituted, and at a greater distance from the court than fifty *coss*, the judge of the *zillah* or city court is authorized by a letter signed by himself, and sealed with the seal of the court, to request the judge of the *zillah* or city court in whose jurisdiction the witness may reside, either to administer to him an oath, or cause him to sign the abovementioned declaration, should he be of the description of persons whom the courts are empowered to exempt from taking an oath, (according to the discretion of the judge who shall grant the commission, and the religion of the witness,) and to examine such witness on written interrogatories to be transmitted to the judge by both parties or their *vakeels*, if both parties shall desire to examine the witness. The judge to whom the letter may be directed, is to examine the witness or witnesses named in the letter, according to the requisition of it, and to return the deposition of each witness duly subscribed by him, to the judge of the court in which the cause may be depending by the time required in the commission; and every deposition so taken, is to be read as good evidence in the cause. But if the personal attendance of a party in a suit, or a witness, (provided the party, or witness, be not a woman of a rank or quality, which, according to the customs and manners of the country, would render it improper to compel her to appear before a court of justice,) who may be resident at any distance whatever beyond the limits of the jurisdiction of the court, shall be deemed by the judge trying the cause to be indispensably necessary, he is to address the judge of the court in the jurisdiction of which the person whose attendance is required may reside, requesting him to order him to attend; and the judge so addressed, is directed to comply with the requisition, without further delay than may be necessary in the event of the attendance of such person before the court of the judge to whom the application may be made being indispensable, in consequence of his being either a party or a witness in a suit depending before the court. If any exhibit or written evidence is offered to a *zillah* or city court in a cause depending before it, and the judge of the court shall think it just and proper to reject it, he is to endorse upon it the word "rejected," together with the names of the parties in the cause, and the name of the party who produced the document, the date on which it may be rejected, and his reasons for not admitting it, (which may be written either upon the document rejected, or on a paper to be annexed to it,) and to subscribe his name to the endorsement, and return the document with his reasons so written to the person who produced it.

VII. When the parties have been heard, and the witnesses on both sides examined, and the exhibits received and considered, the judge is to give judgment according to justice and right, and is to order costs to be paid to the party in whose favour the decree may be made. The court is then to cause the decree to be executed, if it be for a *zemindaree*, independent or dependant *talook*, or other estate or real property, by causing possession of the property to be delivered to the person to whom it may be decreed; if it be for personal property or a sum of money, by causing the specific thing to be delivered, or the value of it, or the sum of money decreed to be levied by public sale by auction of a sufficient portion, or, if requisite for

the satisfaction of the decree, the whole of the lands, houses, and all other effects, either real or personal, belonging to the party against whom the judgment may have been given, or by the attachment of his person, or, where it may be necessary, both by the sale of his property and effects, and the attachment of his person.

Monthly allowance to be paid to defendants confined at the instance of plaintiffs.

VIII. If the defendant in a suit in a *zillah* or city court shall be committed to close custody at the instance of the plaintiff, either whilst the suit is depending, or after the decree shall have been passed, the judge at the time of the commitment of the defendant, is to make an order on the plaintiff for the payment of whatever monthly allowance he may think reasonable for the subsistence of the defendant, upon a consideration of his rank and situation in life, and the circumstances of the plaintiff. The allowance is not to exceed four annas, nor to be less than one anna per day; and is to be made payable to the *nazir*, who is to give monthly receipts for it to the plaintiff, dated on the day on which the money may be paid. The first payment is to be made immediately upon the confinement of the defendant, and every subsequent payment at the expiration of the next following months, calculating from the day on which the defendant may be confined. If the plaintiff shall neglect or refuse to pay the prescribed allowance for the space of one month after any payment may become due, the *nazir* is to report the omission or refusal in writing under his signature to the judge. Upon receipt of the report, the judge is to cause it to be notified to the plaintiff by a writing, (in the Persian and Bengal languages, if the court be situated in Bengal or Orissa, or in the Persian language, and the Hindoostanee language and the Nagree character, if it be in Behar,) to be fixed up in some conspicuous place in the court-room, that if he shall not within one month after the date of the notice, pay the sums in arrear, together with the allowance for one month in advance, the court will release the defendant. If the plaintiff shall not make the payments required by the notice, the court is accordingly to discharge the defendant from custody. Plaintiffs are not to be required to pay any allowance to defendants who may be committed to custody for disobedience to an order of the court.

To whom and when the allowance is to be payable.

Nazir to report to the judge, in the event of the plaintiff omitting or refusing to pay the allowance for one month.

Judge how to proceed upon such report.

Plaintiffs not to pay any allowance to defendants confined for disobedience to the orders of the court.

Zillah and city courts to transmit to the Board of Revenue, and the collector of the *zillah*, a copy of every decree regarding *malguzaree* land, which they may pass, and of every such decree that may be transmitted to them by the provincial court of appeal, or the Sudder Dewanny Adawlut, to be enforced together with an abstract of the decree.

IX. That the quinquennial register of landed property paying revenue to Government directed to be prepared by Regulation XLVIII. 1793, may be kept complete, the *zillah* and city courts are strictly enjoined to transmit to the collector of the *zillah* and the Board of Revenue, a copy of every decree that they may pass, or which may be sent to them to be enforced by the provincial courts of appeal or the Sudder Dewanny Adawlut, regarding any *zemindaree*, independent *talook*, or other land, paying revenue immediately to Government, or in any wise concerning the possession of such land. The judge is to transmit the copy of the decree within ten days after he may pass or receive it. The decree is to be attested with the signature of the judge and the seal of the court, and is to be accompanied with a short abstract of it, specifying the date of the decree, the names of the *pergunnah* or *pergunnahs*, the *talook* or *talooks*, the *turuf* or *turufs*, the village or villages, or the portions of each, which may be decreed, the name or names of the person or persons last in possession, the person or persons to whom the lands may be decreed, and, if the land be decreed to two or more persons, the shares awarded to each person.

What the abstract is to contain.

Suits of plaintiffs who neglect to proceed in them for six weeks to be dismissed, unless they can show good cause for not having proceeded. Judge to record upon the proceedings his reasons for the exercise of the powers vested in him by this section.

X. If a plaintiff shall at any time neglect to proceed in his suit for six weeks, the suit is to be dismissed, unless he can show good and sufficient cause to the court for not having proceeded in it; and the court is to award to the defendant the whole or such part of the costs as he may have incurred in the suit, according as it may deem equitable. The judge is to record upon the proceedings his reasons at large for dismissing the suit of a plaintiff, or allowing him to prosecute it, after he shall have neglected to proceed in it for six weeks.

Court how to proceed in case a defendant cannot be found, or absconds, or acts so that the process of the court cannot be served upon him.

XI. If a defendant against whom a summons may issue shall abscond, or is not after diligent search to be found, or shall shut himself up in his own or in any house or building, or retire to any place so that the process cannot be served upon him, and the *nazir* shall return that on such account he has not been able to serve or execute the process, the judge is to cause a writing (in the Persian and Bengal languages, if it be in Bengal or Orissa, or in the Persian language, and the Hindoostanee language and Nagree character, if it be in Behar) to be stuck up in some conspicuous part of the room in which the court may be held. The writing is to contain a copy of the summons, and a notice, that if the party shall not appear on a day to be fixed, (which shall not be less than fifteen days from the time that the summons may be fixed up,) the court will proceed without further notice to try and determine

What the writing so fixed up is to contain.

the cause without the appearance or answer of the defendant. The court is likewise to order a copy of the summons and notice to be fixed up with all practicable dispatch on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village, or other place, in which he may have generally resided. The *nazir* is to return the order with an endorsement, stating at what times and places the summons and notice may have been fixed up. The return of the *nazir* is to be filed in court, and to form a part of the record of the trial. If the defendant shall not appear at the time limited in the notice, or if a defendant who may have been served with a summons shall not appear, or, having appeared, shall refuse to give answer, or make other default, or shall admit the truth of the plaintiff's bill of complaint, the court, on examining the allegations of the plaintiff only, and the depositions of his witnesses, is to decree and give judgment, in the same manner as if the defendant had appeared, answered, and entered into proof.

Nazir to return how he has executed the process.

Nazir's return to be filed.

Cases in which the court is to give judgment on the allegations and evidence of the plaintiff only.

XII. If a defendant, for whose appearance security may have been taken, shall not appear, or having appeared, shall refuse to give answer, the plaintiff is permitted to institute a suit against the sureties on their engagement, and is to be entitled to recover from them whatever he may prove to be due to him from the defendant; or he may proceed against the defendant in the same manner as defendants are directed to be proceeded against who have been served with a summons, and have not appeared, or have refused to give answer.

Sureties for defendants not appearing, or refusing to give answer, liable to be prosecuted as principals. Option given to the plaintiff to prosecute the surety, or to proceed against the defendant as herein directed.

XIII. Every process, rule, order, or decree, of the *zillah* and city courts (with the exception contained in this section) is to be immediately served or executed, without application to any person, or the interference of any individual whomsoever, according to the requisition of it, within the limits of the special jurisdiction of each court. But in every case in which the defendant shall be a Hindoo or Mahomedan woman of a rank or quality, which, according to the customs and usages of the country, would render it improper to compel her to appear in an open court of justice, the judges of the *zillah* and city courts are not to issue any compulsory process against her, to compel her to appear and make answer; but are to issue a summons requiring her to appear in person or by *vakeel*, at a certain time to be named in the summons, in the *zillah* or city court, and answer to the complaint, and abide by the orders which the court may think proper to pass in the cause. The summons is to be directed to the *nazir* of the court, and is to contain a short account of the nature of the demand or complaint, with a notice, that if the defendant shall not appear, as required by the summons at the time specified in it, or having so appeared, shall not answer to the complaint at the time which may be fixed by the court, or make any other default, the court will proceed to try and determine the cause in the same manner as if the defendant had appeared, answered, and done, what she is authorized or required to do in defence of the suit. The summons is further to command the *nazir* to deliver a copy of it to the *dewan*, or some principal servant of the defendant. The *nazir* is not to have recourse to compulsion to enforce the summons, but is to serve it in the manner herein directed and no other. The *nazir* is to return the summons on the day appointed for the appearance of the defendant, with an endorsement specifying in what manner he has executed it, and if he has not executed it, the reason why it has not been executed. If the defendant should appear in person or by *vakeel*, the court is to fix a certain day according to its discretion, for her to answer to the complaint, and to appoint a day for the parties to deliver in their pleadings; and the court is to try and determine the cause, in the same manner as suits instituted against persons not being women of the abovementioned description. Upon the summons being issued, if the *dewan* or other principal servant of the defendant shall abscond, or otherwise act so that the summons cannot be served upon him, or shall not after diligent search and enquiry be found, the judge, upon the return of the summons and proof being made before him on oath of the fact, is to proceed against the defendant in the same manner as he is directed to proceed against a defendant, who after diligent search cannot be found, or shall have absconded or othewise acted so that he could not be served with a summons. If a female defendant on whom no summons can be served, after the prescribed notice has been issued, shall not appear as required, or appearing shall neglect or refuse to answer, or make other default, or admit the truth of the complaint, the court, on examining the allegations of the plaintiff only, and receiving the depositions of his witnesses, are to decree and give judgment in the same manner as if the defendant had appeared, answered, and entered into proof.

Process of the courts to be served according to the requisition of it, without application to any person, or the interference of any individual. Exception to the rule made in favour of defendants who may be women of the description herein specified. How such women are to be summoned when defendants.

Summons to be directed to the *nazir*.

What it is to contain.

The *nazir* to serve the summons in the manner herein mentioned, and no other.

Nazir to return how he has served the summons.

Court how to proceed, if the defendant should appear in conformity to the summons.

Court how to proceed, in case the principal servant of the defendant cannot be served with the summons, and the defendant shall not appear in person or by *vakeel*.

XIV. If a witness, or any person, shall be guilty of wilful and corrupt perjury in any cause or matter depending in court, the judge is immediately to commit the offender to close custody, to take his trial before the court of circuit of the division in which the offence may be committed.

Witnesses, or persons guilty of wilful or corrupt perjury to be committed to take their trial before the court of circuit.

XV. In suits regarding succession, inheritance, marriage, and caste, and all religious usages and institutions, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to be considered as the general rules by which the judges are to form their decisions. In the respective cases, the Mahomodan and Hindoo law officers of the court are to attend to expound the law.

The decisions of the courts to be conformable to the Mahomedan law with regard to Mahomedans, and the Hindoo law with regard to Hindoos, in the cases herein specified.

XVI. The judges of the *zillah* and city courts, are strictly enjoined not to order or allow of a report of any matters of fact relating to any cause depending before them, with a view to the passing a decree, to be made to them by any officer of the court, or any other person, excepting in cases in which special authority for that purpose may be given to the courts by any regulation. This rule however is not to be construed to prevent a judge referring any question arising on the Mahomedan or Hindoo law, to the *cauzy* or *pundit* of the court, respect being had to the law in which each is conversant. When a reference of this nature is deemed necessary, a statement of the facts on which the question of law may arise, is to be made out in writing, and signed by the judge of the court, and delivered to the *cauzy* or *pundit* for his opinion upon it. A blank is to be left for the answer of the law officer on the same paper on which the question is stated, or on a paper firmly annexed to it. The answer is to be attested with the signature of the law officer, and the dates on which the question may be stated to him, and the answer may be given, are to be specified.

Courts not to refer matters of fact to any person whomsoever with a view to passing a decree.

Exception to the rule.

The rule not to prevent references to the law officers on points of law.

References to the law officers to be made in writing. What they are to contain.

Answer on what paper to be written, and what it is to contain.

XVII. In cases of disputed property regarding lands, houses, or their limits or boundaries, in which the court may deem a local investigation proper, the court is to appoint an *ameen*, who is to be sworn to make a true and faithful report to the court of the several matters which he may be directed to investigate, and not to take or receive, directly or indirectly, from either party, any gratuity, reward, or consideration, besides the sum which may be allowed to him by the court. The *ameen* is to be ordered to make his report in writing, subscribed with his name, and to deliver it into court on a certain day, which is to be specified in his commission. The report is to be received by the court, as evidence in the cause with regard to the matters which the *ameen* may be commissioned to investigate, and no other. The court may order such sum to be paid to the *ameen* as may be thought reasonable for his trouble, and the amount is to be added to the costs, and paid by the person against whom the decree may be passed. But the court is to be careful that expences are not unnecessarily incurred by the *ameen* by delay or other means.

Court may depute an *ameen*, where local investigations may be necessary in disputes regarding real property. To what points the *ameen* is to be sworn.

Report to be made by the *ameen* duly attested by him on a certain day. Court to order such sum to be paid to the *ameen* as it may judge adequate to his trouble. By whom the sum awarded is to be paid. Precaution to be observed by the courts in awarding such sums.

XVIII. The plaintiff is to pay the charges of summoning the defendant, and his own witnesses, and of all process attended with expence which may be issued in his behalf previous to the decision of the suit.

Plaintiff to pay in the first instance, the expence of all process that may be issued in his behalf, previous to the decision of the suit.

XIX. The judges of the *zillah* and city courts, are to order the causes depending in their respective courts, to be brought on for trial according to the order in which they may be filed, except in cases in which it may be otherwise directed by any regulation, or in which the judge may think it proper for special reasons, which he is to state at large upon the record of the trial, to bring on the cause before its turn. The register is to enter in a book the causes for the trial of which a day may be appointed by the judge, and on the day fixed, call on the causes for trial in the order in which they may have been entered. A paper containing a list of the causes, and the day appointed for the trial of them, is to be fixed up in some conspicuous part of the court-room seven days previous to the day of trial.

Suits to be brought on for trial in the order in which they may be filed. Exception to the rule. A paper specifying the causes for the trial of which a day has been fixed, is to be stuck up in some conspicuous part of the court-room seven days previous to the trial.

XX. All orders and process of the court which may be directed to be served or executed on any person, are to be written or printed in the Persian and Bengal languages in Bengal and Orissa, and in the Persian language, and the Hindoostanee language and Nagree character, in Behar, and are to be sealed with the seal of the court, and signed by the judge. When a summons, or any process, is issued against a defendant, or a witness in a cause, or any other person who may not reside or be present at the place at which the court may sit, and for the serving or executing of which a *peon* or *peons* may be necessary, each *peon* is to be paid by the party in whose behalf the summons or process may issue, four annas per day for

In what language and character the process of the court is to be written.

Summonses and process to be served and executed by *peons*.

Daily allowance to be paid to the *peons*.

for his subsistence, excepting in districts where custom may have fixed the subsistence money of *peons* at a lower rate, in which case the lower rate, and no more, is to be paid. The name of each *peon* deputed to serve the process, the amount of his subsistence money, and the number of days for which he is to receive it, is to be endorsed on the writing. No greater number of *peons* than two are to be deputed to serve or execute any process of the courts, and one *peon* only is to be sent, excepting in cases in which the judges may think two *peons* necessary.

Courts to fine persons guilty of contempt, arrogations of judicial authority, or illegal exertions of it in their own causes.

XXI. If any person shall be guilty of contempt of court in open court, or of undue arrogations of the authority of the court, or of illegal exertions of judicial authority in his own cause, the court is immediately to punish the offender by fining him in a sum not exceeding two hundred rupees, and keeping him in custody until the fine shall be paid. The courts are to regulate the amount of the fines which they may impose under this section according to the situation and circumstances in life of the offenders.

Zillah court how to proceed against *zemindars*, independent *talookdars*, or other actual proprietors of land, or dependant *talookdars*, who may resist their process. Offender to be summoned to answer for his conduct. Court how to proceed if the offender shall not obey the summons. Decree to be passed if the offender shall not appear, or shall appear, and be proved guilty of the charge.

XXII. If a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, shall resist, or cause to be resisted, any process, rule, order, or decree of a *zillah* court, the court, on proof of the resistance being made by oath to its satisfaction, is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house, or in any building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding or acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time, or, if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to decree that the offender shall from the date of the decree, forfeit his *zemindaree*, *talook*, or other estate, in which the resistance may have been made; or, if the resistance shall have been made out of the limits of the estate of the offender, the *zemindaree*, *talook*, or other landed property that he may possess within the jurisdiction of the court, the process of which may have been resisted. If the cause shall not be appealed to the provincial court of appeal within the time limited for preferring appeals to that court in Section 12, Regulation V. 1793, the court is immediately to forward a copy of its decree and proceedings respecting the charge to the Governor General in Council. If the offender shall appeal to the provincial court of appeal within the prescribed period, and the court should confirm the decision of the *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court in Section 10, Regulation VI. 1793, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court, and the Sudder Dewanny Adawlut should confirm that decree of the court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial courts of appeal under this section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared that an appeal shall not lie to the last mentioned court, unless the annual produce of the lands of the offender which may be adjudged forfeited (calculating according to the amount paid and payable to the offender by the dependant *talookdars*, under-farmers, and *ryots*, on account of the year in which the decree may be passed) shall exceed one thousand sicca rupees. In the event of an appeal from the decree of the provincial court being presented to the Sudder Dewanny Adawlut, and the admission or rejection of the appeal depending upon the produce of the lands for the year before mentioned exceeding or falling short of one thousand sicca rupees, the court of Sudder Dewanny Adawlut is to order the provincial court to obtain the necessary information regarding the produce, and after receiving their report, admit or reject the appeal, according as they may deem equitable. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the estate of any person forfeited under this section, either to order it to be executed, or to commute the forfeiture for such fine as

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealed in time.

If the offender should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the offender not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable. Sudder Dewanny Adawlut how to proceed, if the suit should be appealed to them, and they should confirm the decision of the provincial court. Rule for determining from what decrees of the provincial courts passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

If the lands are decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine within four weeks after he may receive the decree.

upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court which shall have transmitted the decree and proceedings to him, upon receiving notice of the fine that he may impose, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. But if the Governor General in Council shall not within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture for a fine, the decree is to stand good against the offender. In such case, or in the event of the Governor General in Council ordering the decree to be executed, the court is to issue a precept, under the seal of the court and the signature of the register, requiring the collector of the revenue of the *zillah* to depute an *ameen* with a proper establishment of officers (whose allowances are to be specified in the precept) to sequester the lands, and collect the rents and revenues. If the lands of the offender shall be deemed by the court too inconsiderable to admit of their being charged with the expence of an *ameen*, they are to direct a precept to be issued to the collector of the *zillah*, to order the nearest *tehsildar*, or any other officer who may be employed under him in the business of the collections, to take charge of the lands. The officer is to perform the duties prescribed to *ameens* in such cases, and under the same restrictions and penalties.

If the forfeiture is commuted for a fine, by what court, and how it is to be levied.

Decree of forfeiture to be final, if the Governor General in Council shall not order it to be executed, or commute it for a fine within four weeks. If the decree is declared, or becomes final, the court to issue a precept to the collector to sequester the lands.

XXIII. If the decree adjudging the lands of the offender forfeited, shall be confirmed or stand good under Section 22, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever that may be due from him to Government on account of the lands forfeited, and to pay the fixed public revenue assessed upon them, or, if the property forfeited be a dependant *talook*, the revenue payable from it to the proprietor within whosee state it may be situated; or, to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited in Regulation XLV. 1793.

If the forfeiture should stand confirmed, the Governor General in Council to confer the estate on the heirs of the offender, or to dispose of it at public sale.

XXIV. If a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from any *zillah* court, on proof of the resistance being made by oath to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own or any house or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or, if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to decree the lease cancelled from the expiration of the Bengal, Fussilly, or Willaity year, (according as the farm may be situated in Bengal, Behar, or Orissa,) in which the decree may be passed. If the offender shall not appeal to the provincial court of appeal within the time limited for preferring appeals to that court in Section 12, Regulation V. 1793, the court is immediately to transmit to the Governor General in Council a copy of the decree and of all the proceedings respecting the charge. If the offender shall appeal to the provincial court of appeal within the prescribed period, and the court should confirm the decision of the *zillah* court, and the cause shall not be appealable to the Sudder Dewanny Adawlut, or if it shall be appealable, and the offender shall not lodge an appeal within the time limited for preferring appeals to that court in Section 10, Regulation VI. 1793, the provincial court is immediately to forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If an appeal from the decision of the provincial court shall be admitted, and the Sudder Dewanny Adawlut should confirm the decree of the provincial court, they are immediately to transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. That no doubt may be entertained from what decrees passed by the provincial courts of appeal under this section, an appeal is to be allowed to the Sudder Dewanny Adawlut, it is declared, that an appeal shall not lie to the last mentioned court, unless the revenue payable

Courts how to proceed against persons holding farms of Government, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealed in time.

If the offender should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the offender not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny how to proceed, if they should admit an appeal, and confirm the decree of the court.

Rule for determining from what decrees passed under this section an appeal

is to lie to the Sudder Dewanny Adawlut.

to Government by the offender for the year in which the decree may be passed on account of the lands the lease for which may be adjudged annulled, shall exceed one thousand sicca rupees. It shall be at the option of the Governor General in Council, within four weeks after the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed, or to commute the forfeiture of the lease for such fine as upon a consideration of the situation and circumstances in life of the offender, he may think adequate to the offence for which the decree may be passed; or, if the offender shall not be desirous of being continued in his farm, to fine him as above prescribed, and compel him to retain the farm during the remainder of the lease, and to hold him and his surety responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, is to levy the amount of it by the same process as is prescribed for enforcing decrees of the court. But if the Governor General in Council shall not within four weeks after the decree shall have been received by him, either order it to be executed, or commute the forfeiture of the lease for a fine, the decree is to stand good against the offender, and the court is without delay to cause a copy of the decree to be sent to the collector. If the lease of the offender shall be annulled, and a balance shall be due from him to Government at the close of the year in which the lease may be cancelled, both he and his surety are to be held responsible for the payment of it, and the collector of the revenue of the *zillah* is empowered to proceed against them for the recovery of it in the manner prescribed in Section 20, Regulation XIV. 1793, for the recovery of balances due from farmers whose leases may be declared annulled under that regulation. The offender is permitted to prosecute in the *dewanny adawlut* of the *zillah* in which the farm may be situated, the dependant *talookdars*, under-farmers, and *ryots*, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him on account of the period during which his lease remained in force.

Option reserved to the Governor General in Council to confirm the decree or commute it for a fine, and to compel the farmer to perform the conditions of his lease.

By what court and how such fines are to be levied.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

Farmers whose leases may be cancelled how to recover balances.

Zillah and city courts how to proceed against persons resisting process, who are not proprietors of land, *talookdars*, or farmers.

XXV. If any person not being a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the court of *dewanny adawlut* established in any *zillah*, or in either of the three cities of Patna, Dacca, and Moorshedabad, on proof of the resistance being made by oath to its satisfaction, the court is to cause the offender to be summoned to answer to the charge. If the person for whom the summons may be issued shall abscond, or shut himself up in his own, or any house, or building, or retire to any place so that he cannot be served with the summons, the court is to proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court is to adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted. If the offender shall not prefer an appeal to the provincial court of appeal within the time prescribed for lodging appeals, the court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution. If the offender should appeal to the provincial court of appeal within the prescribed time, and the court should confirm the decision of the *zillah* or city court, the rules regarding appeals to the Sudder Dewanny Adawlut from the decisions of the provincial courts of appeal for sums of money, are to be held applicable to decisions which may be passed by the provincial courts under this section. If the provincial courts should confirm the decision of the *zillah* or city court, and the fine should not exceed one thousand sicca rupees, or if it should be above that sum, and the offender shall not prefer an appeal to the Sudder Dewanny Adawlut wtihin the time prescribed for lodging appeals, the court is to proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution.

Offender to be summoned to answer for his conduct.

Court how to proceed if the offender shall not obey the summons.

Persons fined by any *zillah* or city court under this section to be allowed an appeal to the higher courts under the regulations.

XXVI. The judges of the *zillah* and city courts are to insert in their decrees the names of the witnesses whose depositions may have been taken, the title of every exhibit read in the cause, and the amount of the annual produce of the land, or the sum of money, or the value of the property or thing decreed. The decree is to be sealed with the seal of the court, and signed by the judge, and dated on the day on which it may be passed. The judge, or the register, either at the time of making the decree, or on a subsequent day, (of which the court is to give notice to the parties or their *vakeels*,) within ten days after passing the decree, is to deliver or tender in open court to each party, or their *vakeels*, a true copy of the decree authenticated as above directed, with an endorsement made upon it by the register of the date on which the copies may be delivered; and an entry of the delivery or tender, with the date on which it may be made, is to be inserted by the register in the margin of the record opposite to the decree. If either of the parties, or their *vakeels*, shall not be present at the time the decree may be passed, and the prescribed copy of it may be produced in the court to be delivered, or shall not attend on the subsequent day which may be fixed for the delivery of the copies, after previous notice of the day shall have been given to them, or shall refuse to take the copy of the decree when tendered as above directed, the copy is to be deposited amongst the records of the court, and the cause of the non-delivery of it to the party is to be noted upon it in writing, and in the margin of the record opposite to the decree, under the official signature of the register.

What the decrees of the courts are to contain. To be sealed with the seal of the court, and signed by the judge, and dated on the day on which they may be passed.

Judge or register, within ten days to tender in open court a copy of the decree to the parties, on a day of which previous notice is to be given. Register to endorse on the decree the date on which it may be delivered or tendered.

Court how to proceed in the event of parties or their *vakeels* not being in attendance to receive a copy of the decree, or of their refusing to take it.

A. D. 1793. REGULATION XV.

A REGULATION *for fixing the Rates of Interest, on past and future Loans.*—PASSED *by the Governor General in Council, on the* 1*st May* 1793*; corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Rumzaan* 1207 *Higeree.*

Preamble.

THE late regulations regarding interest, on past and future loans, not providing for cases in which a higher interest than the general legal rates is allowed to be taken, the following rules, containing provisions for such cases, and including the abovementioned regulations, with modifications, have been enacted.

Rates of interest to be decreed where the cause of action shall have arisen before the 28th March 1780, and

II. *First.* If the cause of action shall have arisen before the twenty-eighth day of March one thousand seven hundred and eighty, the courts of civil judicature are not to decree higher or lower rates of interest than the following:—

may not exceed one hundred Sa. Rs. or,

Second. On sums not exceeding one hundred sicca rupees; three rupees, and two annas, per cent. per mensem, or thirty-seven rupees, and eight annas, per cent. per annum.

may exceed that sum.

Third. On sums exceeding one hundred sicca rupees; two per cent. per mensem, or twenty-four per cent. per annum.

Rates of interest to be decreed where the cause of action shall have arisen between the 28th March 1780, and the 1st January 1793, and

III. *First.* If the cause of action shall have arisen at any period between the twenty-eighth day of March, one thousand seven hundred and eighty, and the first day of January, one thousand seven hundred and ninety-three, no higher or lower rates of interest than the following are to be decreed:—

may not exceed one hundred Sa. Rs. or,

Second. On sums not exceeding one hundred sicca rupees; two per cent. per mensem, or twenty-four per cent. per annum.

may exceed that sum.

Third. On sums exceeding one hundred sicca rupees; one per cent. per mensem, or twelve per cent. per annum.

Twelve per cent. to be decreed, if the cause of action shall have arisen after the 1st of January 1793.

IV. If the cause of action shall have arisen on or after the first day of January, one thousand seven hundred and ninety-three, the courts are not to decree any interest on any sum whatever, above the rate of twelve per cent. per annum.

Lower rates of interest than those authorized in Sections 2, 3, and 4, to be decreed, if stipulated between the parties.

V. If in any of the cases specified in Sections 2, 3, and 4, a lower rate of interest than any of the rates therein authorized to be awarded, shall have been stipulated between the parties, no higher rate of interest than the rate so stipulated, is to be decreed.

Courts not to decree a greater sum for interest, than the amount of the principal, in any case.

Exception.

VI. If the interest on any debt, calculating according to the rates allowed by this regulation, shall have accumulated so as to exceed the principal, the courts are not in any case whatever, (excepting the cases specified in Section 12,) to decree a greater sum for interest than the amount of such principal.

Compound interest on intermediate adjustments of accounts not to be allowed.

To what cases this rule is not to extend.

VII. The courts are not to decree any compound interest, arising from intermediate adjustments of accounts. This rule, however, is not to extend to cases in which accounts between the parties shall have been adjusted, and the former bonds or agreements cancelled,

and new bonds or agreements taken, for the aggregate amount of the principal, and the legal interest remaining due upon the adjustment, consolidated into principal.

Cases in which the interest on bonds or instruments executed on or subsequent to the 28th March 1780, is to be forfeited.

VIII. The courts are not to decree any interest whatever, in any case, where the bond or instrument given for the security and evidence of the debt, shall have been granted on or subsequent to the twenty-eighth day of March, one thousand seven hundred and eighty, and shall specify a higher rate of interest than is authorized by this regulation to have been given and received subsequent to that date.

Suit to be dismissed with costs, where the cause of action shall have arisen on or subsequent to the 28th March 1780, if any attempt is made to evade this regulation.

IX. Nor to decree any interest whatsoever in favour of the plaintiff, in any case, where the cause of action shall have arisen on or subsequent to the twenty-eighth day of March, one thousand seven hundred and eighty, where a greater interest than is authorized by this regulation shall have been received, or stipulated to be received, if it be proved that any attempt has been made to elude the rules prescribed in it, by any deduction from the loan, or by any device or means whatever, nor to give any other judgment, but for the dismission of the suit, with costs to be paid by the plaintiff.

What interest is to be allowed on mortgage bonds for real property, executed prior, on, or subsequent to the 28th March 1780.

X. In cases of mortgages of real property, executed prior to the twenty-eighth day of March, one thousand seven hundred and eighty, in which the mortgagee may have had the usufruct of the mortgaged property, whether he shall have held it in his own possession or not, the usufruct is to be allowed to the mortgagee, in lieu of interest, agreeably to the former custom of the country, (provided it shall have been so stipulated between the parties,) until the abovementioned date, subsequent to which, the same interest is to be allowed on such mortgage bonds, and also on all bonds for the mortgage of real property, which have been entered into on or since that date, or that may be hereafter executed, as is allowed on other bonds, which have been or may be granted on, or posterior to, such date, and no more; and all such mortgages are to be considered as virtually and in effect cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property subsequent to the twenty-eighth day of March, one thousand seven hundred and eighty, or otherwise liquidated by the mortgager.

Mortgagee to deliver in true accounts of his receipts and expenditures.

XI. For the adjustment of the accounts, in the cases of mortgages specified in Section 10, where the mortgagee shall have had the usufruct of the mortgaged property, the mortgagee is to be required to deliver in the accounts of his gross receipts from the property mortgaged, and also of his expenditures, for the management or preservation of it. The mortgagee is to swear, or (if he be of the description of persons whom the courts are empowered to exempt from taking oaths) to subscribe a solemn declaration, that the accounts which he may deliver in are true and authentic. The mortgager is to be permitted to examine the accounts, and after hearing any objections he may have to offer, or any evidence that either party may have to adduce, respecting them, the court is to adjust the account.

Rules in the preceding sections not to extend to respondentia loans, or policies of insurance.

XII. The rules contained in the preceding sections, are not to be considered to extend to respondentia loans, or policies of insurance, the interest on which is to be regulated by the terms of the deeds, and the laws and usages which prevail respecting such transactions.

A. D. 1795. REGULATION VII.

A REGULATION *for establishing a Court of Dewanny Adawlut, or Court of Judicature for trying civil Suits in the first instance, at the City of Benares, and at Mirzapore, Ghazeepore, and Juanpore, in the Province of Benares, and for defining the Jurisdiction and Powers of those Courts.*—PASSED *by the Governor General in Council, on the* 27*th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE Governor General in Council being solicitous to extend to the inhabitants of the province of Benares, including those who resort to it through religious motives, the same security for the enjoyment of the privileges and immunities which have been conferred upon them, as is experienced in similar respects by the inhabitants of the provinces of Bengal, Behar, and Orissa; and to ensure to them equal protection with regard to their persons and property; he has determined, on the grounds which induced him to new model the constitution of the courts of judicature in those provinces, as stated in the preamble to Regulation III. 1793, to abolish the courts of judicature in the province of Benares now superintended by native judges, (which were originally established with a view to the introduction of a more perfect system of administering the laws,) and in lieu of them, to erect courts for the trial of civil suits in the first instance, constituted upon the same principles, and vested with the same powers, as the city and *zillah* courts in the three provinces above mentioned. The following rules have been accordingly enacted.

Courts of *dewanny adawlut* to be denominated after the city or *zillah* for which they are respectively established.

II. *First.* A court of *dewanny adawlut*, or court of judicature for the trial of civil suits in the first instance, shall be established in the city of Benares, and at Mirzapore, Ghazeepore, and Juanpore, and each court shall be denominated after the city or *zillah* in which it may be established, as follows:

Benares.

Second. The court of *dewanny adawlut* to be established in the city of Benares, shall be denominated, "the court of *dewanny adawlut* for the city of Benares."

Mirzapore, Ghazeepore, Juanpore.

Third. The courts of *dewanny adawlut* to be established at Mirzapore, Ghazeepore, and Juanpore, are to be respectively denominated, "the court of *dewanny adawlut* for the *zillah* of Mirzapore, Ghazeepore, and Juanpore."

The city, and each of the *zillah* courts, to be superintended by one judge.

Oaths to be taken by the judges of the city and *zillah* courts.

III. The city court, and each *zillah* court, is to be superintended by one judge, who, previous to entering upon the execution of the duties of his office, is to take and subscribe before the Governor General in Council, or any person whom he may commission to administer it, an oath similar to that prescribed to the judges of the city and *zillah* courts, in the provinces of Bengal, Behar, and Orissa, by Section 3, Regulation III. 1793.

Special jurisdiction of the city and *zillah* courts.

IV. *First.* The special jurisdiction of the city court, and each *zillah* court, is declared to be as follows:

Jurisdiction of the city court.

Second. The jurisdiction of the *dewanny adawlut* of the city of Benares, is to extend throughout the undermentioned places.

The city of Benares, and its suburbs.

Those small divisions of territory contiguous to the city, known by the names of the *talooks* of Jalhoopore, and Lhota, together with Chetaypore, the *amanut mohauls*, and Teekree.

The *pergunnahs* of Sheopore,
Kutteher, and
Kuswar, as far as regards the divisions of it called Gungapore, Kurowna, and Jukhnee, and Soorye Kerowte.
The *pergunnahs* of Atgowan or Hurhood,
Ralhoopore,
Dhoos, and
Mohwy and Mehwary.

Jurisdiction of the *zillah* court of Mirzapore.

Third. The jurisdiction of the *dewanny adawlut* for the *zillah* of Mirzapore, is to extend throughout the undermentioned places.

The *mundovee* or mart of Mirzapore, and the limits thereof.
The *pergunnah* of Kuntit, consisting of its three *tuppahs* of Chowrassy Chehanovy, Ophrowde, and Kone.
The *talook* of Suktesghur,
The *pergunnahs* of Burhur Agowrie,
Bejehghur,
Budhoee,
Havily Chunar,
Bhugwut, or Putteeta, and
Kureeat Sekhur.
The *talook* of Mujehwa.
The *pergunnahs* of Ahroura,
Bhoilee, and
Kera Mungrore.

Jurisdiction of the *zillah* court of Ghazeepore.

Fourth. The jurisdiction of the *dewanny adawlut* of the *zillah* of Ghazeepore, is to extend throughout the undermentioned places.

The town of Ghazeepore and its limits.
The *pergunnahs* of Havily Ghazeepore,
Zemanea,
Chownsa,
Burreh,
Mehayeh, or Mehaitch,
Bhurwul,
Mujehwar,
Nerwun,
Beleeah,
Syedpore Beetree,
Sekunderpore,
Khereed,
Kopachet,
Mahommedabad,
Gurha and Dehma,
Zehoorabad,
Pachoter,
Shadeeabad,
Behreeabad,
Kurrendeh,
Luknesr, and
Khanpore.
The *talooks* of Cheet and of Feerozpore.

Jurisdiction of the *zillah* court of Juanpore.

Fifth. The jurisdiction of the *dewanny adawlut* of the *zillah* of Juanpore, is to extend throughout the following places.

The town of Juanpore, and its limits.
The *pergunnahs* of Havily Juanpore,
Angoolee, and
Rauree, including the *talook* of Budlapoor.
The *talooks* of Kereeat Mehra,
Dowst,
Singramow,
Chundwuck or Dobehee,
Sreemoo Pessara,
Shah Gunge,
The other *talooks* included under the general denomination of the Mehalat Bukhsheeat.
The *pergunnah* of Pundraha,
The *tuppeh* of Guzara,
The *pergunnahs* of Kerakut,
Gurwara,
Muchlee Sheher, or Ghessooa,
Mongra, and
Mureeahoo,
The *talooks* of Bursuttee, and
Gopalapore,
The *pergunnahs* of Bealsee, and
Kola-asla,
The *talooks* of Dowrooa, and
Bynsadeoray.

Sixth. The local jurisdiction above assigned to the city court, and to the three *zillah* courts, is to be subject to such alteration as the Governor General in Council may occasionally judge expedient.

The local jurisdiction of the courts, liable to be altered by Government.

V. The rules prescribed in Section 5, Regulation III. 1793, to the city and *zillah* courts, in the provinces of Bengal, Behar, and Orissa, are hereby declared to extend to the city court, and the three *zillah* courts in the province of Benares.

Section 5, Regulation III. 1793, extended to the city and *zillah* courts in Benares.

VI. The city court, and the three *zillah* courts, are each to use a circular seal, one inch and three quarters in diameter, with an inscription to the following effect, in the Persian language and character, and the Hindoostanee language and Nagree character. "The seal of the *dewanny adawlut* of the city (or *zillah*) of ———." The seal of each court is to remain in the custody of the judge.

Seals of the courts.

Seals to remain in the custody of the judges.

VII. The jurisdiction, powers, and authorities, vested in the *zillah* and city courts, in the provinces of Bengal, Behar, and Orissa, by Sections 7, 8, 9, 10, 11, 12, 13, Regulation III. 1793, are hereby vested in the city court, and the three *zillah* courts in Benares, and the rules contained in those sections are to be considered equally applicable to the province of Benares, as to the provinces of Bengal, Behar, and Orissa.

Sections 7, 8, 9, 10, 11, 12, 13, Regulation III. 1793, extended to Benares.

VIII. The city court, and the three *zillah* courts, are prohibited hearing, trying, or determining, the merits of any suit whatever, against any person or persons, to regain the possession of lands or grounds, if the cause of action shall have arisen previous to the 1st of July 1775, or any suit whatever, against any person or persons, if the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it, unless the complainant can shew by clear and positive proof, that he demanded the money or matter in question, and that the defendant admitted the truth of the demand, or promised to pay the money, or that he directly preferred his claim within that period for the matter in dispute to a court of competent jurisdiction, or to the *Hakim ul Wokt*, or person having authority, whether local, or otherwise, for the time being, to hear such complaints, to try the demand, and assign satisfactory reasons to the court, why he did not proceed in the suit, or show, that either from minority, or other good and sufficient cause, he was precluded from obtaining redress. But from this rule are excepted all claims founded on bonds, which shall have been in a course of payment by instalments, or of which any proportion shall have been paid within twelve years previous to the institution of the suit; and also all claims on mortgages, the

Courts not to try the merits of any suit for lands or grounds, where the cause of action shall have arisen before the 1st of July 1775, nor any suit where the cause of action shall have arisen twelve years before a suit or suits shall have been commenced for it.

Exceptions to the rule.

Further exceptions in respect to bonds and to mortgages.

the period for rendering which obsolete and unactionable, is to be determined by the law of the religion of the defendant.

Decrees not to be given for sums of money on bond which may be entered into after the 1st July 1795, which may not have been executed in the presence of two credible witnesses, unless the sum or a valuable consideration shall be proved to have been given.

Cases to which this restriction is not to extend.

IX. The city court, and the three *zillah* courts, are prohibited decreeing the payment or satisfaction of any sum due on a *tumassook* or bond, which may have been entered into after the 1st of July 1795, unless the bond shall be proved to have been executed in the presence of two credible witnesses, or the payment of the sum demanded on the bond, or some other valuable consideration for it having been received, shall be proved to the satisfaction of the court. But the restriction contained in this section is not to extend to any bills of exchange, receipts, or notes of hand, in the determination on which, the custom of the country is to be abided by; nor to the dealings and money transactions amongst *mehajons* and *shroffs*, in which the established customs observed and in force amongst them, are to be adhered to by the courts in their enquries and decisions.

Judge not to entertain suits which may have been decided by any former judge, or superintendent having competent jurisdiction.

Doubts respecting the competency of the former jurisdiction, to be submitted to the Sudder Dewanny Adawlut.

X. The city court, and the three *zillah* courts, are prohibited entertaining any cause, which from the production of a former decree, or the records of the court, shall appear to have been heard and determined by any former resident, acting resident, or native *hakim* or superintendent of a court having competent jurisdiction. If any doubt should arise respecting the competency of the former jurisdiction, the judge is to report the circumstance to the Sudder Dewanny Adawlut, and wait the instructions of that court.

Sections 18, 19, 21, Regulation III. 1793, extended to Benares.

XI. The rules prescribed to the city and *zillah* courts in Bengal, Behar, and Orissa, in Sections 18, 19, 21, Regulation III. 1793, are hereby declared to extend to the city court, and three *zillah* courts in Benares.

An appeal to lie from the city and *illah* courts to the provincial court of appeal under Regulation IX. 1795. Exception to the Rule.

Judges to state in their decrees the grounds on which they may be passed.

XII. An appeal shall lie to the provincial court of appeal for the division of Benares, from the decisions of the city court and the *zillah* courts under Regulation IX. 1795, (excepting in the cases specified in clause fourth, Section 6, Regulation XII. 1795,) and the judges are invariably to state in every decree, the grounds on which it may be passed.

A. D. 1795. REGULATION VIII.

A REGULATION *for extending to the Province of Benares, with Alterations and Modifications, Regulation IV.* 1793, *entitled "A Regulation for receiving, trying, and deciding, Suits or Complaints declared cognizable in the Courts of Dewanny Adawlut, established in the several Zillahs, and in the Cities of Patna, Dacca, and Moorshedabad;" and for exempting the Raja of Benares, and the Baboos of his Family, and certain Bankers, when Defendants, from giving the Security required from other Defendants.*—PASSED *by the Governor General in Council, on the* 27*th March*, 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1201 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE rules for receiving, trying, and deciding, suits or complaints, prescribed to the courts of *dewanny adawlut* in the cities and *zillahs*, in the provinces of Bengal, Behar, and Orissa, by Regulation IV. 1793, being, with certain alterations and modifications, considered equally applicable to the courts of *dewanny adawlut* established in the city of Benares, and in the *zillahs* of Mirzapore, Ghazeepore, and Juanpore; and it having been deemed advisable, from respect to the Raja of Benares, to exempt him, and the Baboos of his family, when defendants in any suit, from giving the security required from other defendants; and it having been thought proper to grant a similar privilege to certain bankers, in consideration of the long established credit and responsibility of their houses; the following rules have been enacted.

Regulation IV. 1793, extended to Benares, with alterations and modifications.

II. The rules contained in Regulation IV. 1793, for receiving, trying and deciding, suits or complaints, declared cognizable in the courts of *dewanny adawlut*, established in the several *zillahs*, and in the cities of Patna, Dacca, and Moorshedabad, in the provinces of Bengal, Behar, and Orissa, are to be considered as the rules for receiving, trying, and deciding, suits or complaints, declared cognizable in the courts of *dewanny adawlut*, established in the city of Benares, and in the *zillahs* of Mirzapore, Ghazeepore, and Juanpore, with the following alterations and modifications.

Rule substituted in lieu of Section 15.

III. *First.* The following rule is substituted in lieu of Section 15.

By what law the suits herein described are to be decided.

Second. In suits regarding succession, inheritance, marriage, and cast, or other religious usages, or institutions, the Mahomedan laws, with respect to Mahomedans, and the Hindoo laws, with regard to Hindoos, are to be considered as the general rules by which the judges are to form their decisions. In causes in which the plaintiff shall be of a different religious persuasion from the defendant, the decision is to be regulated by the law of the religion of the latter, excepting where Europeans, or other persons, not being either Mahomedans or Hindoos, shall be defendants, in which cases the law of the plaintiff is to be made the rule of decision in all plaints, and actions of a civil nature. The Mahomedan and Hindoo law officers of the courts, are to attend to expound the law of their respective persuasions, in cases in which recourse may be required to be had to it.

Where parties in suits are of different persuasions, the court is to be guided by the law of the defendant. Exception.

Rule in the following clause substituted in the room of Section 9.

IV. *First.* The rule contained in the following clause, is substituted in lieu of Section 9.

Copies of decrees regarding *malguzaree* land to be furnished by the courts to the collector, and the Board of Revenue, for keeping complete the quinquennial register of lands.

Second. That the quinquennial register of landed property, paying revenue to Government, directed to be kept by Regulation XIX. 1795, may be complete, the city court, and the *zillah* courts, are strictly enjoined to transmit to the collector of Benares, and to the Board of Revenue, a copy of every decree that they may pass, or which may be sent to them to be enforced by the provincial court of appeal, or the Sudder Dewanny Adawlut, regarding any *talook*, or *zemindaree*, or *putteedaree*, distinct or common, or other lands, paying revenue immediately to Government, or in any wise concerning the possession of such land. The judge is to transmit the copy of the decree, within ten days after he may pass, or receive it. The decree is to be attested with the signature of the judge, and the seal of the court, and is to be accompanied with a short abstract of it, specifying the date of the decree, the names of the *pergunnah* or *pergunnahs*, the *talook* or *talooks*, the *turf* or *turfs*, the village or villages, or the *kismuts* or portions of each, which may be decreed, the name or names of the person or persons last in possession, the person or persons to whom the lands may be decreed, and, if the land be decreed to two or more persons, the shares awarded to each person.

What the abstract is to contain.

Rate of *tullubbanah* to be exacted in lieu of that specified in Section 20.

Third. *Peons* deputed to serve summonses, or execute process, are to receive two annas per day each, instead of the rates specified in Section 20.

What officers the courts are to order to take charge of land adjudged forfeited under Section 22.

V. Where decrees of forfeiture may be ordered to be executed as specified in Section 22, the court by which the decree is to be executed, is, in all cases, in the precept directed to be issued to the collector, to require him to order the nearest *tehsildar*, or other officer, who may be employed under him in the business of the collections, to take charge of the lands.

Rule substituted in lieu of Section 23.

VI. *First.* The following rule is substituted in lieu of Section 23.

How lands forfeited under Section 22, are to be disposed of.

Second. If the decree adjudging the lands of the offender forfeited, shall be confirmed or stand good, under Section 22, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands, on his heirs, upon their agreeing to make good all sums whatever that may be due from him to Government on account of the land forfeited, and to pay the fixed public revenue assessed upon them; or, if the property forfeited be a common or distinct *putteedaree*, the revenue payable from it to the principal proprietor or proprietors; or to the *pottah*-holder, or *pottah*-holders, in whose *pottah* it may be included; or to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited in Regulation XX. 1795.

Collector to proceed against farmers whose leases may be annulled under Section 24, and their sureties, for arrears, in the manner specified in Regulation VI. 1795.

VII. The collector is to proceed against farmers, whose leases may be annulled under Section 24, and their sureties, for the recovery of any arrears that may be due from them in the manner specified in Regulation VI. 1795, instead of Section 20, Regulation XIV. 1793, as directed in the first mentioned section, for the recovery of balances due from farmers, whose leases may be adjudged annulled in consequence of their having resisted the process of the collector, or their sureties.

How the offender is to recover arrears due to him in the farm.

The offender is permitted to prosecute in the *dewanny adawlut* in the jurisdiction of which the farm may be situated, the *talookdars*, *zemindars*, *putteedars*, distinct and common, under-farmers, and *ryots*, in the lands included in the farm, for any arrears of rent or revenue that may be due from them to him, on account of the period during which his lease remained in force.

Rules respecting resistance to the process of the *zillah* courts, to be considered equally applicable to resistance to the process of the city court.

VIII. The rules prescribed in Regulation IV. 1793, and this regulation, regarding proprietors of land, whether *zemindars*, *talookdars*, or *putteedars*, distinct or common, or farmers of land, holding farms immediately of Government, or other persons resisting or causing to be resisted, any process, rule, order, or decree, of a *zillah* court, are to be considered equally applicable to any such persons who may resist or cause to be resisted, any process, rule, order, or decree, of the *dewanny adawlut*, established in the city of Benares.

Languages and characters in which the process of the courts is to be written.

IX. The rules, orders, and other process, of the city and *zillah* courts in the province of Benares, are to be written in the same languages and characters, as the rules, process, and orders, of the courts in the province of Behar.

Cases wherein defendants are not to be called on for security in causes tried before the city and *zillah* courts.

X. On a written complaint being preferred in the manner specified in Section 5, Regulation IV. 1793, either against the raja of Benares, or against any of the principal *muhajons* of the city of Benares, being such as are known under the denomination of *nowputty*, or

against any of the *baboos*, (being persons of the raja's blood and family,) the security required from defendants in the said section, shall not be demanded of them, but the court is merely to issue a notice to such defendants, containing a short account of the nature of the demand, and fixing a day for him or them, to appear either in person, or by *vakeel* duly athorized, to answer to the claim; and in case of his or their failing to appear as required, or to conform to all the subsequent established process in the cause, such defendant or defendants shall forfeit the honorary privilege hereby reserved to them, and be dealt with in all respects as other unprivileged defendants. This privilege, however, is to be construed to extend only to the cases above specified, in which such persons may be defendants in the city court, or the *zillah* courts, and to suits which may be directed to be tried in the first instance in the provincial court of appeal, or the Sudder Dewanny Adawlut, pursuant to orders from the Governor General in Council, or in the provincial court of appeal, in conformity to directions from the Sudder Dewanny Adawlut, and not to any cases of appeal, in which, whether the appeal be lodged in the provincial court of appeal, or the Sudder Dewanny Adawlut, the said persons are to give the same securities, as other persons concerned in appeals in those courts.

A. D. 1795. REGULATION XLIV.

A REGULATION *for removing certain Restrictions to the Operation of the Hindoo and Mahomedan Laws, with regard to the Inheritance of landed Property subject to the Payment of Revenue to Government, in the Province of Benares.*—PASSED *by the Governor General in Council, on the* 28*th August* 1795; *corresponding with the* 14*th Bhadoon* 1202 *Bengal era; the* 28*th Bhadoon* 1202 *Fussily; the* 14*th Bhadoon* 1202 *Willaity; the* 28*th Bhadoon* 1852 *Sumbut; and the* 12*th Suffer* 1210 *Higeree.*

Preamble.

ON grounds similar to those stated in the preamble to Regulation XI. 1793, for removing certain restrictions to the operation of the Hindoo and Mahomedan laws with regard to the inheritance of landed property subject to the payment of revenue to Government, in the provinces of Bengal, Behar, and Orissa, the following rules have been enacted for the province of Benares.

After the beginning of the Fussily year 1204, landed property to descend according to the Mahomedan or Hindoo law, unless the last proprietor shall have otherwise disposed of it in a manner sanctioned by those laws.

II. After the first day of the Fussily year 1204, if any *talookdar*, *zemindar*, or other actual proprietor of land, shall die without a will, or without having declared by a writing, or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Mahomedan or Hindoo law, (according as the parties may be of the former or latter persuasion,) may be respectively entitled to succeed to a portion of the landed property of the deceased, such persons shall succeed to the shares to which they may be so entitled.

Two or more persons succeeding to an estate, to be at liberty to hold it as a joint undivided estate;

or one, or more, or all of the sharers allowed to have separate possession of their shares;

or two or more of the sharers permitted to hold their shares as a joint undivided estate.

III. If any *talookdar*, *zemindar*, or other actual proprietor of land, shall die subsequent to the period specified in Section 2, without a will, or without having declared by a writing or verbally, to whom and in what manner his or her landed property is to devolve after his or her demise, and shall leave two or more heirs, who, by the Mahomedan or Hindoo law, (according as the parties may be of the former or the latter persuasion,) shall be respectively entitled to succeed to a portion of the landed property of the deceased under the rule contained in that section, such persons shall be at liberty, if they shall prefer so doing, to hold the property as a joint undivided estate. If one, or more, or all of the sharers, shall be desirous of having separate possession of their respective shares, a division of the estate shall be made in the manner directed in Regulations XXV. 1793, and XXVI. 1795; and such sharer or sharers shall have the separate possession of such share or shares accordingly. If there shall be three or more sharers, and any two or more of them shall be desirous of holding their shares as a joint undivided estate, they shall be permitted to keep their shares united accordingly.

Shares held separate, how to be assessed.

IV. It is to be understood, that if any one or more of such sharers shall apply to have the separate possession of his or their share or shares, the proportion of the public *jumma* charged upon the whole estate which is to be assessed upon such share or shares, is to be adjusted according to the rules prescribed in Section 7, Regulation XXVII. 1795.

This regulation not to be in force until the beginning

V. Nothing contained in this regulation, is to be construed to entitle any person to a share of an estate which may be now held entire by any individual, or that may devolve en-

of the Fussily year 1204, and then not to operate retrospectively.

tire to any individual prior to the beginning of the Fussily year 1204, in exclusion of the other heirs of the last proprietor, under the custom in virtue of which such individual may so hold or succeed to the whole of such estate, and for the future abolition of which this regulation is enacted; but such person or persons are to be considered bound in the cases specified in clause tenth, Section 35, Regulation XXII. 1795, by what they had acquiesced in.

Nor to prevent persons transferring their property in the manner and to whom they may think proper, provided the transfer be not repugnant to the Hindoo or Mahomedan law, or the regulations of the Governor General in Council.

VI. Nor to prohibit any actual proprietor of land, bequeathing or transferring by will, or by a declaration in writing, or verbally, either prior or subsequent to the Fussily year 1204, his or her landed estate entire, to his or her eldest son, or next heir, or other son or heir, in exclusion of all other sons or heirs, or to any person or persons, or to two or more of his or her heirs, in exclusion of all other persons or heirs, in the proportions, and to be held in the manner, which such proprietor may think proper, provided that the bequest or transfer be not repugnant to any regulations that have been or may be passed by the Governor General in Council, nor contrary to the Hindoo or Mahomedan law, and that the bequest or transfer, whether made by a will or other writing, or verbally, be authenticated by, or made before, such witnesses and in such manner, as those laws and regulations respectively do or may require.

A. D. 1795. REGULATION LV.

A REGULATION *for prohibiting the Courts of Civil Judicature from requiring Security from Guardians of disqualified Landholders when Parties in Suits with their Wards, under Section* 32, *Regulation X.* 1793.—PASSED *by the Governor General in Council, on the* 1*st September* 1795; *corresponding with the* 18*th Bhadoon* 1202 *Bengal era; the* 2*d Bhadoon* 1202 *Fussily; the* 18*th Bhadoon* 1202 *Willaity; the* 2*d Bhadoon* 1852 *Sumbut; and the* 16*th Suffer* 1210 *Higeree.*

Preamble.

DOUBTS having arisen whether guardians sued jointly with their wards, under clause first, Section 32, Regulation X. 1793, are not liable under the regulations to give the same securities as are required from defendants in general; and it not having been intended by the rule contained in the abovementioned clause, that guardians should incur any personal responsibility on account of such suits, they being entrusted only with the care of the person, maintenance, and (if a minor) the education of the ward; and the estate of the ward being answerable for all claims upon it; the Governor General in Council has been pleased to enact the following rule, which is to be considered in force from the date of its receipt in the several courts respectively.

Guardians, when parties in civil suits with their wards, exempted from giving securities.

II. In cases in which a guardian may be a party jointly with his ward, under clause first, Section 32, Regulation X. 1793, in any civil suit, the securities required by the regulations to be taken from parties in suits, shall not be demanded from the guardian.

A. D. 1796. REGULATION XIII.

A REGULATION *for repealing such Parts of Regulations V. and VI.* 1793, *as authorize the Execution of Decrees, passed by the Zillah and City Courts in the Provinces of Bengal, Behar, Orissa, and Benares, although appealed from to the Provincial Courts, and of Decrees, passed by the Provincial Courts, appealed from to the Sudder Dewanny Adawlut.*—PASSED *by the Governor General in Council, on the* 16*th December* 1796; *corresponding with the* 4*th Poose* 1203 *Bengal era; the* 2*d Poose* 1204 *Fussily; the* 4*th Poose* 1204 *Willaity; the* 2*d Poose* 1853 *Sumbut; and the* 15*th Jumaud us Sanee* 1211 *Higeree.*

Preamble.

THE clause in Section 12, of Regulation V. 1793, which authorizes the *zillah* and city courts, in cases of appeal to the provincial courts, to carry into execution the decrees passed by them, notwithstanding the appeal, unless the decree be for land or real property; and a similar clause in Section 10, of Regulation VI. 1793, authorizing the provincial courts to execute their decrees, although appealed from to the Sudder Dewanny Adawlut, under the same restriction with respect to land or other real property, having been found objectionable, inasmuch as it often occurs that a decree cannot be enforced without a sale of property, or attachment of the person, both which are liable to objection, whilst there is a possibility of the judgment passed in the first instance being reversed or qualified on the appeal; the following rules have been enacted, to be considered in force from the date of the receipt of this regulation by the several courts, in the provinces of Bengal, Behar, Orissa, and Benares.

Execution of decrees appealed from, whether passed in a *zillah*, city, or provincial court, to be suspended during the appeal, under the prescribed security.

II. In all authorized cases of appeal from the decrees of the *zillah* or city courts to the provincial courts; or from the decrees of the provincial courts to the Sudder Dewanny Adawlut, the court in which the decree appealed from may have been passed, shall suspend the execution of it during the appeal, provided the party against whom the decree may have been passed, shall at the time of preferring his appeal, or within such reasonable period afterwards as may be fixed for the purpose, deliver the security required by the existing regulations, viz. if the decree be for a *zemindaree*, *talook*, or other land, or for a house or other real property, good and sufficient security in a sum equal to one year's produce thereof; and in all other cases, good and sufficient security in an amount equal to the sum of money or value of the thing decreed, for the performance of the decree which may be passed upon the appeal.

Interest to be allowed on sums adjudged by the decree appealed from, if confirmed, and litigious appeals to be punished by fine.

III. To prevent an abuse of the above rule, and the encouragement of litigious appeals, the provincial courts of appeal, in all cases wherein they may confirm the decree of a *zillah* or city court, and the Sudder Dewanny Adawlut, in all cases wherein it may confirm the decree of a provincial court, are to adjudge interest at the rate of one per cent. per mensem on all sums receivable by the respondent under the decree passed in his favour, from the date of such decree, and are authorized to punish appeals which may appear to them litigious, by a fine to Government, proportionate to the condition of the party, and the circumstances of the case.

A. D. 1797. REGULATION VI.

A REGULATION *for abolishing Regulation XXIII.* 1793, *entitled, "A Regulation for raising an annual Fund for defraying the Expense of the Police Establishments entertained under Regulation XXII.* 1793; *and for establishing new Fees on the Institution and Trial of Suits in lieu of those prescribed by Regulation XXXVIII.* 1795; *and for levying a Stamp Duty on certain Law, and other Papers and Documents, and a Per-centage on the Fees of the authorized Pleaders in the Courts of Civil Judicature, in the Provinces of Bengal, Behar, Orissa, and Benares.*—PASSED *by the Vice-President in Council, on the* 10*th April* 1797; *corresponding with the* 31*st Chyte* 1203 *Bengal era; the* 29*th Chyte* 1204 *Fussily; the* 31*st Chyte* 1204 *Willaity; the* 29*th Chyte* 1854 *Sumbut; and the* 12*th Shawaul* 1211 *Higeree.*

Preamble.

BY Regulation XXIII. 1793, it was enacted, that the annual expense of the police establishments in the several *zillahs* and cities in the provinces of Bengal, Behar, and Orissa, should be defrayed under certain rules specified in the said regulation, by the native merchants, traders, and shop-keepers, who either resided or had houses of trade, *goluhs*, or shops, in any town or village, or in any *gunj*, *bazar*, or *haut*, or elsewhere. Difficulties, however, have been experienced in determining what persons were liable to be charged with the tax under the said regulation, and also in fixing the amount to be assessed on the towns, *bazars*, and other places respectively, and the proportion to be paid by the several contributors residing or having commercial concerns therein; and frauds and exactions have in consequence been committed by the assessors and collectors, to the vexation of the contributors, as well as to the diminution of the produce of the tax. The Vice-President in Council has therefore resolved to abolish this tax; and with a view further to discourage the preferring of litigious complaints, and the filing superfluous exhibits, and the summoning unnecessary witnesses on the trial of suits, and also to provide for the deficiency which will be occasioned in the public revenue by the abolition of the police tax, as well as to add eventually to the public resources, without burthening individuals, he has resolved to substitute new fees on the institution and trial of suits in the room of the fees established by Regulation XXXVIII. 1795, and likewise to establish stamp duties on certain original deeds or papers, and all copies of deeds or papers, which may be prepared and attested by the *cauzies* or their officers, or the *mufties*, and on all pleadings in the courts of civil judicature, and on all copies of papers furnished by the said courts, and the Board, and the collectors of the revenue, and on all *rowannahs* issued from the department of the customs, and on certain written obligations for the payment of money, and on the *sunnuds* of appointment granted to *cauzies* and authorized pleaders in the courts of judicature, with a per-centage on the fees paid to the latter. The following rules have been accordingly enacted, and are to be considered in force in the four provinces from the date of their receipt in the several city and *zillah* courts.

Regulation XXIII. 1793, abolished.

II. *First.* Regulation XXIII. 1793, is hereby declared to be rescinded, from the date on which this regulation may be received in the *zillah* and city courts respectively, in the provinces of Bengal, Behar, and Orissa; and the collectors in the said provinces are thereon to withdraw the officers employed in the assessment or collection of the tax, and to discontinue all demands or collections on account of it.

Produce of lands and allowances applicable to the police, to be carried to the public account as heretofore.

Second. The produce of the lands, and the allowances, resumed, or resumable, under clause fourth, Section 8, Regulation I. 1793, being still applicable towards defraying the expenses of the police, are to be carried to the public account towards discharging the same as heretofore.

Fee of one anna in the rupee to be paid on the institution of suits before the munsiffs.

III*. First. *The native commissioners vested with the powers of* munsiff, *under Regulation XL.* 1793, *and XXXI.* 1795, *are to levy from the plaintiff in every suit that may be preferred to them in the first instance, after the receipt of this regulation in the several* zillahs *and cities respectively, a fee of one anna in the rupee, and no more, on the amount of the money, or the value of the personal property, which may constitute the subject of the suit, being the same amount as they were heretofore authorized to levy under Regulation XXXVIII.* 1795.

Suits not to be received until the fee be paid.

Second. *The* munsiffs *are not to receive any such suits, until the prescribed fee shall have been paid.*

Where the munsiff *is to record the amount of the fees received by him.*

Third. *The* munsiffs *are to endorse on the back of the petition of complaint, the amount of the fee which may be so received by them, and the date of the receipt of it, and subscribe the endorsement with their signature; and they shall also state the amount after the particulars of the decision of the suit, in the third column of the monthly report which they are required to transmit to the judge in their capacity of* munsiff, *by Section* 15, *Regulation XL.* 1793.

How the fees received by the *munsiffs* are to be appropriated.

Fourth. The *munsiffs* are to appropriate the fees they may collect under this section, to their own use, as a compensation for their trouble, and an indemnification for the expense which they may incur, in the execution of the duties of their office.

Fees to be paid on suits preferred to the zillah *and city courts. Courts prohibited from filing the petitions until the fees be paid.*

IV†. First. *In lieu of the fees specified in Section 3, Regulation XXXVIII.* 1795, *the following fees shall be paid by plaintiffs on the institution of suits in the* zillah *and city courts, which may be preferred after the receipt of this regulation in the several* zillahs *and cities; and the courts are not to file any petition of complaint until the fees hereafter prescribed shall have been paid.*

Fees on suits for money or personal property.

Second. *In suits for money, or the value of personal property.*

On sums not exceeding two hundred rupees, at the rate of one anna per rupee.

On sums above two hundred, and not exceeding one thousand rupees, the fees are to be paid on two hundred rupees of the amount, as above prescribed for that sum, and at the rate of four per cent. on the remainder.

On sums above one thousand, and not exceeding five thousand rupees, the fees are to be paid on one thousand rupees of the amount, as above prescribed for that sum, and at the rate of three per cent. on the remainder.

On sums above five thousand, and not exceeding twenty-five thousand rupees, the fees are to be paid on five thousand rupees of the amount, as above prescribed for that sum, and at the rate of two per cent. on the remainder.

On sums above twenty-five thousand, and not exceeding fifty thousand rupees, the fees are to be paid on twenty-five thousand rupees of the amount, as above prescribed for that sum, and at the rate of one per cent. on the remainder.

On sums above fifty thousand rupees, the fees are to be paid on fifty thousand of the amount, as above prescribed for that sum, and at the rate of half per cent. on the remaimder.

To obviate the trouble of minute calculations, where the sum may be in rupees, and fractions of rupees, the fractions are to be rejected in calculating the fees.

* Clauses 1, 2, and 3, of this section are rescinded by Section 2, Regulation XXIII. 1814.

† Sections 4. to 30. are rescinded by Section 2, Regulation I. 1814.

Third. *In suits for* malguzaree *land, (land paying revenue to Government), fees are to be levied from the plaintiff on the amount of the annual* jumma *payable from the land to Government, at the rates and under the rules specified in clause Second.*

Fees on claims to malguzaree *land.*

Fourth. *In suits for* lakheraj *land, (land held exempt from the payment of revenue to Government,) fees are to be paid by the plaintiff at the rates, and under the rules specified in clause Second, on ten times the amount of the annual produce of the land, which is to be estimated according to the rule prescribed in Section* 3, *Regulation IV.* 1793.

Fees on claims to lakheraj *land.*

Fifth. *In suits for houses, tanks, gardens, or other real property, not being land of the descriptions specified in the two preceding clauses, fees are to be paid by the plaintiff on the estimated value of the property, at the rates and under the rules specified in clause Second.*

Fees on claims to real property not being malguzaree *or* lakheraj *land.*

Sixth. *The undermentioned proportions of the fees collected agreeably to this section, on suits which may be referred by the judge to his register for decision under Regulation VIII.* 1794, *after the receipt of this regulation, shall be paid for his own use to the register by whom the suits may be determined, or before whom they may be depending, in the event of the parties adjusting them by* razeenamah.

Proportion of the fees levied under this section, to be paid to the registers on suits determined before them.

On sums not exceeding fifty rupees, one anna per rupee.
On sums above fifty, and not exceeding two hundred rupees, one anna per rupee on fifty rupees, and half an anna per rupee on the remainder of the sum.

Seventh. *The fees which shall be collected under this section on suits which may be referred to the commissioners for decision in their capacities of referees* (ameens), *or arbitrators* (salisan), *under Regulations XL.* 1793, *and XXXI.* 1795, *shall be paid by the courts to the commissioner by whom the suits may be determined, or before whom they may be depending, in the event of the parties adjusting by them* razeenamahs, *as a compensation for their trouble, and an indemnification for the expence which they may incur in the discharge of the duties of their office.*

Commissioners in their capacity of referees and arbitrators, to receive from the court the fees levied under this section on suits determined before them.

V. First. *In lieu of the fees specified in Section* 4, *Regulation XXXVIII.* 1795, *the following fees shall be paid from the date of the receipt of this regulation by the* zillah *and city courts on the trial of suits now under trial, or which may be hereafter tried in the first instance by the judges of the* zillah *and city courts, or by their registers.*

Fees to be paid on the trial of suits in the zillah *or city courts, or before the registers of those courts.*

In suits for money, or personal property, not exceeding in amount or value two hundred sicca rupees, or for lakheraj *land, the annual produce of which shall not be above twenty sicca rupees, or for* malguzaree *land, the annual* jumma *payable from which to Government shall not exceed two hundred sicca rupees, or for other real property, the estimated value of which shall not be above two hundred sicca rupees.*

On every exhibit which may be filed after the receipt of this regulation, in addition to the plaint, answer, reply, and rejoinder, ... eight annas.

For every witness who may be summoned, or ordered to be examined on commission after the receipt of this regulation, ... eight annas.

In suits for money, or property, the amount, value, annual jumma, *or annual produce of which may exceed that above specified, but which shall not be such as is declared to render a suit appealable to the Sudder Dewanny Adawlut.*

On every exhibit which may be filed after the receipt of this regulation, in addition to the plaint, answer, reply, and rejoinder, ... one rupee.

For every witness who may be summoned, or ordered to be examined on commission, after the receipt of this regulation, ... one rupee.

In suits for money or property, the amount, value, jumma, *or annual produce of which shall be such as is declared to render a cause appealable to the Sudder Dewanny Adawlut.*

On every exhibit, which may be filed after the receipt of this regulation, in addition to the plaint, answer, reply, and rejoinder, ... two rupees.

For every witness who may be summoned, or ordered to be examined on commission after the receipt of this regulation, ... two rupees.

When the fees to be levied under this section are to be paid.

Second. *The fees to be levied under this section, are to be paid on the exhibits being presented to be filed, or the summonses or commissions for the attendance or the examination of the witnesses being applied for; and the exhibits shall not be filed, nor the summonses or commissions issued, until the fees be paid.*

Fees to be paid on the institution and trial of appeals from the decisions of the native commissioners and the registers.

VI. First. *In appeals to the judges of the* zillah *and city courts, from the decisions of the native commissioners appointed under Regulations XL.* 1793, *and XXXI.* 1795, *in their capacities of referees, arbitrators, or* munsiffs, *and from decisions passed by the register under Regulation VIII.* 1794, *fees shall be levied on the institution of the appeal, and on the trial of it, at the rates, and under rules and restrictions similar to those prescribed in Sections* 4. *and* 5. *of this regulation, in lieu of the fees specified in Sections* 3. *and* 4. *of Regulation XXXVIII.* 1795.

Persons desirous of appealing, who shall not pay the fees, and present their petition of appeal within the limited time, to forfeit their right to an appeal.

Second. *To prevent misconstruction, it is declared, that if an appellant shall present a petition of appeal to the court, or (if the decree with which the party may be dissatisfied shall have been passed by the register,) to the register, and the judge or register, in conformity to the rule prescribed in clause first, Section* 4, *respecting petitions of complaint preferred in the first instance to the* zillah *and city courts, shall refuse to file the petition, in consequence of the petitioner not having paid the fees, and he shall not both pay the fees and present the petition before the elapse of the time limited for filing petitions of appeal, his having presented the petition without the fees before the expiration of the limited time for appealing, shall not be considered as preserving to him his right of appeal, but his appeal shall be rejected, unless the judge shall deem it proper to admit the appeal under the discretionary power vested in him by Section* 20, *Regulation XL.* 1793, *or clause second, Section* 3, *Regulation XXXVI.* 1795, *according as the decision appealed from may have been passed by a native commissioner, or a register.*

Fees to be levied on appeals, and on suits tried in the first instance in the provincial courts of appeal and the Sudder Dewanny Adawlut.

VII. After the date of the receipt of this regulation in the several courts respectively, in appeals which may be preferred to the provincial courts of appeal, from the decisions of the zillah *and city courts, and in appeals which may be presented to the Sudder Dewanny Adawlut, from the decisions of the provincial courts of appeal, and in suits now under trial, or which may be hereafter tried in the first instance in the provincial courts of appeal, and in the Sudder Dewanny Adawlut, the provincial courts of appeal, and the Sudder Dewanny Adawlut respectively, shall levy fees on the institution of the appeals or suits, and also on the trial of the appeals or suits, at the rates, and under rules and restrictions similar to those specified in Sections* 4. *and* 5, *and clause second, Section* 6. *of this regulation, in lieu of the fees prescribed in Sections* 3. *and* 4, *and clause second, Section* 5, *Regulation XXXVIII.* 1795.

By whom the fees directed to be levied in the preceding sections on the institution of suits or appeals are to be ultimately paid.

VIII. First. *The fees directed to be collected in the preceding sections of this regulation, on the institution of suits or appeals, are to be added by the court or commissioner, before whom the suits or appeals may be tried, to the costs that may be awarded against the party cast, or, in cases from a consideration of the circumstances of which the courts or commissioners may deem it proper so to do, they may order the fees to be borne by the parties respectively, in such proportions as they may consider equitable.*

By whom the fees on exhibits and summonses for witnesses, and orders for the examination of them shall be ultimately paid.

Second. *The fees directed to be levied on exhibits, and on summonses or commissions for the attendance or examination of witnesses in suits and appeals, shall be invariably specified in the decrees, with the other costs; and the amount of them shall be charged to the party cast, or to the parties respectively, in such proportions as the courts may deem equitable, on a consideration of the circumstances of the case.*

Paupers may be exempted from the payment of fees under the rules and restrictions herein specified.

IX. In cases of paupers, the Sudder Dewanny Adawlut, the provincial courts of appeal, and the zillah *and city courts, are empowered to dispense with the payment of the fees directed to be levied in the preceding sections, under rules and restrictions similar to those prescribed in Regulation XLVI.* 1793, *regarding paupers who are unable to plead their own causes, or to find the security therein required for the payment of the fees of the* vakeels. *Commissioners in their capacity of* munsiffs, *are empowered to dispense with the payment of the fees in suits instituted before them in the first instance, under the rules and restrictions prescribed to the courts in this section.*

Munsiffs may dispense with the payment of the fees on the institution of suits, under the restrictions prescribed to the courts.

X. Fees, calculated at the rates of the fees required to be paid on exhibits by Section 5. of this regulation, according to the property to which it may relate, shall be paid on every exhibit delivered to be filed of record, accompanying or referring to any miscellaneous petition or application not immediately forming part of the proceedings in any suit or appeal depending before the court, which may be presented to the court of Sudder Dewanny Adawlut, or any provincial court of appeal, or zillah or city court, after the receipt of this regulation by the said courts; and until the fee be paid, the exhibits shall not be filed, unless, in consideration of the poverty of the person presenting the petition or application, the courts shall deem it proper to dispense with the payment of the fee, in which case they are empowered to remit it.

Fees to be taken on exhibits presented to the Sudder Dewanny Adawlut, and the provincial courts of appeal, and the zillah and city courts, accompanying or relating to miscellaneous petitions or applications.

XI. If any appeals shall have been dismissed under clause second, Section 10, Regulation XXXVIII. 1795, and shall not have been reinstituted under clause third of the same section of the said regulation, the judgments from which such appeals have been made shall stand good, unless the appeals shall be reinstituted within three months from the date of the receipt of this regulation, in the court in which the appeal may be cognizable. The courts of judicature are to fix up a translate of this section, in the native languages, in their respective court-rooms immediately on the receipt of it.

Period limited for the readmission of appeals dismissed under clause second, Sect. 10, Reg. XXXVIII. 1795.

XII. An officer shall be appointed at Calcutta for issuing stampt paper, and keeping accounts of the same under the following regulations, or such other regulations as may be hereafter prescribed.

Officer appointed to issue stampt paper, and to keep accounts thereof.

XIII. The officer shall be styled "superintendent of the stamps," and shall be subject to the orders of the Board of Revenue. Previous to entering on the execution of the duties of his office, he shall take and subscribe the following oath before the Governor General in Council, or whomsoever he may commission to administer it.

To be styled superintendent of the stamps, and to be subject to the orders of the Board of Revenue.

"I A B. appointed superintendent of the stamps, solemnly swear, that I will diligently and faithfully execute the duties of the said office, according to the best of my knowledge and judgment; and that I will not directly or indirectly derive, or knowingly allow any person to derive, any pecuniary advantage or emolument, from, or on account of, any matters relating to the said office, excepting such as may be expressly authorized by the Governor General in Council."

Oath to be taken by the superintendent.

XIV. The superintendent shall not issue any stampt paper from his office, excepting on written application from the courts, boards, or officers, expressly authorized to apply to him for the same by this regulation, or any regulation which may be hereafter enacted, specifying the number and descriptions of stampt rolls or sheets required. These applications shall be the vouchers of the superintendent of the stamp-office for the issue of the paper. The courts, boards, and officers so authorized, are to make timely applications to the stamp-office for supplies of stampt paper, that the public business, or that of individuals, may not suffer interruption from the want of it.

To whom the superintendent may issue stampt paper.

Courts, &c. authorized to apply for stampt paper to make timely applications for it.

XV. First. *The stamps shall be cut at the Calcutta mint, and so as to be as little liable as possible to be counterfeited; and care shall be taken that the impression be durable; and with a view to guard against forgeries, or for other purposes, the Governor General in Council reserves to himself the power of having new stamps prepared in different shapes, and with different marks, as often as he may judge proper, and also of varying the size and description of all paper to which stamps are or may be directed to be affixed, according as circumstances and local considerations may render advisable; but the designation of the stamp, and the amount of the duty, shall be continued in the inscription, and shall not be altered but by a regulation printed and published in the manner prescribed in Regulation XLI. 1793.*

Stamps to be cut in the Calcutta mint.

Power reserved to the Governor General in Council, of preparing new stamps with different marks, &c. and of varying the size and description of the paper; but not of altering the designation or amount of the duties but by a regulation printed and published as prescribed by Regulation XLI. 1793.

Second. *The paper to be stampt, shall be purchased by the superintendent, or shall be provided by contract, or otherwise procured, as the Board of Revenue, with the sanction of the Governor General in Council, shall deem advisable, at the expense of Government.*

How the paper to be stampt is to be provided.

XVI. First. *All original deeds of contracts, bargains, sales, mortgages, releases, assignments, and other conveyances in writing, or instruments, excepting original deeds relating to marriage settlements, which are not required to be written on stampt paper, and*

All original instruments (those relating to marriage settlements only excepted) and all copies, prepared by

the cauzies or their officers, or the mufties, to be written in stampt paper.

the original obligations for the payment of money, hereafter specified in Section 21, which are to be written on the paper therein directed, and all copies of the deeds and instruments above described, including copies of deeds relating to marriage settlements, and the aforesaid obligations for the payment of money, which shall be prepared by the cauzy *of any place, or his officers, or any* mufty, *and which are to be attested with his or their seals or signatures, shall be written on stampt paper of certain sizes and descriptions with which the* cauzies *and* mufties *will be furnished. The parties at whose application such original deeds or instruments, or the copies of them, may be prepared and attested, shall pay to the* cauzy *or the* mufty *previous to his delivering the documents, at the rate of one sicca rupee, or eight annas, or four annas, or two annas, according as may be specified in the stamp affixed to the paper used, for every roll or sheet, or part of a roll or sheet, so stamped, which may be expended in preparing such original deeds or instruments, or the copies of them. The* cauzies *and the* mufties *shall account for, and pay to, the collector, thirteen annas in each rupee of the sum so paid to them, as often, and in such manner, as may be prescribed to them, and shall appropriate the remaining three annas to their own use, as a compensation for their trouble, and any expense which they may incur; and on condition also that they shall be responsible for all stampt paper with which they may be supplied, that may be destroyed, or damaged, or not forthcoming, after they shall have received charge of it. The undefined fees for preparing and attesting the aforesaid deeds or papers, which the* cauzies *were empowered to receive under Section 8, Regulation XXXIX. 1793, and also the fees received by the* mufties *on the same account, are hereby abolished. This rule, however, is not to affect the fees for the performance of marriage or other religious ceremonies, or funeral rites, that may be voluntarily paid by the parties at whose desire they may be performed, which fees the* cauzy *or officer performing such rites or ceremonies is allowed to receive as heretofore.*

Rate of duty to be paid for the stamps.

Thirteen annas of the amount collected to be paid by the cauzy or the mufty to the collector, and the remaining three annas to be appropriated to his own use, for the purposes and under the conditions herein specified.

Inscription on the stamps.

Second. *The respective stamps shall have an inscription to the following effect, in the Persian and Bengal languages and characters, and in the Hindoostanee language and Nagree character:*

Law papers "one rupee."
or "eight annas."
or "four annas."
or "two annas."

The magistrates to call on the cauzies *and the* mufties *for the size and description of paper used in preparing deeds or other instruments; and to forward the sample to the collector.*

Collector to forward the samples to the Board of Revenue, that the Governor General in Council may determine the same, and the stamps to be affixed.

Third. *Immediately on the receipt of this regulation, the magistrates shall call upon the* cauzies, *and, where there are any such officers, on the* mufties, *in their respective jurisdictions, for a sample of the size and description of paper, on which the original deeds or instruments, or copies of deeds or instruments, which they prepare or attest, are usually written, and shall forward such samples to the collectors, who shall transmit them to the Board of Revenue. On the receipt of these samples, the Board of Revenue shall forward them to the Governor General in Council, who will determine on the size and description of paper to which the several stamps shall be respectively affixed, and the superintendent will be directed to furnish the necessary supplies to the collectors for the* cauzies *and* mufties *accordingly.*

Cauzies and mufties to make timely applications in writing for stampt paper.

Fourth. *After the* cauzies *and* mufties *shall have been furnished with the requisite supply of paper in the first instance, by the collector, as prescribed in clause third, it will be their duty to make timely applications to him for the necessary supplies in future; and all applications for stampt paper from the* cauzies *or* mufties *to the collector, shall be made in writing under their official seals and signatures, and shall specify the date on which such applications may be made, and the number of each description of paper applied for. Attested copies, or the originals of these applications, shall be forwarded by the collector to the superintendent of the stamp-office.*

Cauzies to furnish their officers with stampt paper, and to be responsible for the duties.

Fifth. *The* cauzies *are to furnish their* mullahs, *or other officers, with the requisite quantity of stampt paper from the supplies which they may receive from the collector, and are to be responsible to the collector for the duties on the paper so furnished to their officers.*

Sixth. *If any* cauzy, *or officer of a* cauzy, *or any* mufty, *after the receipt of this regulation, and being furnished with stampt paper in the first instance, as prescribed in clause third, shall affix, or suffer to be affixed, his official seal or signature to any deed or instrument required to be written on stampt paper, whether the same be an original or a copy, which shall be drawn up, or written, on any paper excepting such stampt paper; he shall be dismissed from his office, and such document shall not be admitted in evidence, or otherwise received by any court of judicature, or by any magistrate, board, or collector, or other officer, being a civil covenanted servant of the Company, to whom it may be presented in virtue of his office, until the party presenting it shall have paid a penalty of ten times the amount of the duties which the judge of the* zillah *or city court, or collector of the jurisdiction, may compute would have been chargeable on such document, if it had been written on stampt paper; and until he shall also have produced a receipt from the register of the said court, or the collector of the district, or jurisdiction, shewing that such penalty has been paid. The penalty shall be carried to the account of Government, and the levying thereof shall be specified in writing on the back of the deed or paper, and reported by the court or collector to the Governor General in Council, that the* cauzy *or his officer or* mufty *so offending, may be proceeded against as above prescribed.*

Penalty for cauzies *or their officers or* mufties *preparing any instruments excepting on stampt paper.*

Document not to be admitted in evidence or received, until the party presenting shall have paid a penalty of ten times the amount of the duties.

Report of the cauzy *or his officer or* mufty *offending, to be made to the Governor General in Council.*

XVII. First. *After the date of the receipt of this regulation by the* zillah *and city courts, the provincial courts of appeal, and the Sudder Dewanny Adawlut respectively, every petition, answer, reply, and rejoinder, or any supplement to the said pleadings, which may be presented to any* zillah *or city court, or any provincial court of appeal, or to the Sudder Dewanny Adawlut, whether in suits originally instituted in the said courts respectively, or brought in appeal, shall be written on stampt paper, of a certain size and description, for every roll or part of a roll expended in writing of which, the following rates, to be specified in the stamps affixed to the paper, shall be paid.*

All pleadings in the courts of civil judicature to be written on stampt paper.

Second. *In suits for money or personal property, not exceeding in amount or value one hundred sicca rupees, or for* lakheraj *land, the annual produce of which shall not be above ten sicca rupees, or for* malguzaree *land, the annual* jumma *payable from which to Government shall not exceed one hundred sicca rupees, or for other real property, the estimated value of which shall not be above one hundred sicca rupees, ... four annas.*

Rates of the stamp duties.

Third. *In suits for money or property, the amount, value, annual* jumma, *or annual produce of which may exceed that specified in the preceding clause, but which, if for money or personal property, shall not exceed two hundred sicca rupees, or, if for* lakheraj *land, the amount for the produce of which shall not be above twenty sicca rupees, or, if for* malguzaree *land, the annual* jumma *payable from which to Government, shall not exceed two hundred sicca rupees, or, if for other real property, the estimated value of which shall not be above two hundred sicca rupees, ... eight annas.*

Fourth. *In suits for money or property, the amount, value, annual* jumma, *or annual produce of which may exceed that specified in the preceding clause, but which shall not be such as is declared to render a suit appealable to the Sudder Dewanny Adawlut, one rupee.*

Fifth. *In suits for money, or property, the amount, value, annual* jumma, *or annual produce of which shall be such as is declared to render a cause appealable to the Sudder Dewanny Adawlut, ... two rupees.*

Sixth. *The stamps respectively shall have an inscription to the following effect, in the Persian and Bengal languages and characters, and in the Hindoostanee language and Nagree character:*

Inscription on the stamps.

Pleadings, "four annas."
or "eight annas."
or "one rupee."
or "two rupees."

Seventh. *On the receipt of this regulation, the Sudder Dewanny Adawlut shall transmit samples of the size and description of paper which they may recommend to be used in writing the pleadings in the several courts, to the Governor General in Council, who will fix the same; and on the application of the courts, the superintendent of the stamp-office shall*

Sudder Dewanny Adawlut to furnish samples of the paper for pleadings.

furnish them with the requisite supplies of stampt paper, the courts accounting for the paper to the superintendent according to such rules as may be prescribed to them.

Stamp not to be considered as any evidence of the value of property claimed.

Eighth. *In case of any question arising regarding the amount or value of the property claimed, the stamp affixed to any of the pleadings, is not to be considered as any evidence thereof.*

Miscellaneous petitions and applications, to be considered as pleadings, and to be written on stampt paper.

Ninth. *All miscellaneous petitions and applications, being of the nature of those described in Section* 10, *shall also be considered as pleadings, and shall be written on stampt paper accordingly, under the rules contained in this section.*

Courts to furnish the vakeels *with stampt paper.*

Tenth. *That the parties in suits, or their authorized* vakeels, *may not experience any inconvenience from the want of stampt paper, the courts shall furnish the* vakeels *of their respective courts from time to time with a quantity of stampt paper for pleadings, the* vakeels *accounting for the same in such manner as may be required of them.*

Penalty for officers and parties filing, or allowing to be filed, pleadings not written on stampt paper.

Eleventh. *After the courts shall have been furnished with the requisite supply of stampt paper in the first instance, if any register, or any European or native officer of a court of judicature, shall file, or knowingly allow any person to file, any pleading excepting such as shall be written on stampt paper, as required by this regulation, he shall be liable to dismission from his office, and the party so illegally filing such pleading shall not be entitled to the benefit thereof, until he shall have paid a penalty of ten times the amount of the price of the stamps which the court may compute would have been paid on the pleading, had it been written on stampt paper as herein required.*

Copies of all papers furnished by the courts of civil judicature, to be written on stampt paper.

Rate of duty to be paid for the stamp.

XVIII. First. *All copies of papers, in whatever language the same may be written, which shall be furnished to any person at his own application, or in consequence of any regulation requiring him to take such copy, by the Sudder Dewanny Adawlut, the provincial courts of appeal, or the* zillah *or city courts, shall be written on rolls or sheets, of stampt paper of a particular size and description, and no other; and the party to whom such copy may be furnished, shall pay at the rate of one sicca rupee, or eight annas, or four annas, or two annas respectively, according as may be specified in the stamp affixed to the paper used, for every roll or sheet, or part of a roll or sheet so stampt, which may be expended in transcribing such papers.*

Inscription on the stamps.

Second. *The stamps to be used for the rolls or sheets, shall have respectively an inscription to the following effect in the Persian and Bengal languages and characters, and in the Hindoostanee language and Nagree character:*

Copy of judicial papers, "one rupee."
or "eight annas."
or "four annas."
or "two annas."

Sudder Dewanny Adawlut to furnish samples of the paper to which the stamps are to be affixed, that the Governor General in Council may determine on the same, and on the stamps to be affixed.

Third. *On the receipt of this regulation, the Sudder Dewanny Adawlut shall transmit to the Governor General in Council, samples of the size and descriptions of the paper which they may recommend to be used in transcribing judicial papers in the several courts, with their opinion as to which of the stamps they would recommend to be affixed to the several descriptions of papers. The Governor General in Council will determine on the size and description of paper to which the several stamps shall be affixed, and the superintendent of the stamp-office shall furnish the several courts with the requisite supplies on their application, and the courts shall account for the same according to such rules as may be prescribed to them.*

Penalty for officers of the courts of judicature allowing copies of papers to be furnished, excepting on stampt paper.

Copies so made, not to be admitted in evidence or received, until the party presenting them shall have paid

Fourth. *After the courts shall have been respectively furnished with the requisite supply of stampt paper in the first instance, if any register or other European or any native officer of a court of judicature, shall furnish or make, or knowingly allow any person to furnish or make, a copy of any record or paper belonging to the courts to which they may be respectively attached, excepting on the prescribed stampt paper; or attest any such copy which shall not be written on such paper; he shall be liable to dismission from his office, and the copies so illegally made or attested, shall not be admitted in evidence or otherwise received on any occasion whatever, by any court of judicature, magis-*

trate, board, collector, or other officer, being a civil covenanted servant of the Company to whom the same may be presented in virtue of his office, until the party presenting the same shall have paid a penalty of ten times the amount of the duties which the judge of the zillah *or city court, or collector of the jurisdiction, may compute would have been chargeable on such documents, if they had been written on stampt paper; and until he shall also have produced a receipt from the register of the said court, or the collector of the district or jurisdiction, that such penalty has been paid. The courts of judicature, and the collectors, are required to report to the Governor General in Council every instance which may come before them of copies of papers being so illegally made, taken, or attested, that the officer so offending may be proceeded against as above prescribed.*

a fine of ten times the amount of the stamp duties.

XIX. The Sudder Dewanny Adawlut, the provincial courts of appeal, and the zillah *and city courts, are empowered to dispense with the stamp duties required to be paid by the two preceding sections under rules and restrictions similar to those prescribed in Regulation XLVI. 1793, regarding paupers who may be unable to plead their own causes, or to find the security therein required for the payment of the fees of the* vakeels; *and to order the stampt paper required for the transcripts or pleadings to be supplied without charge to the parties whom they may so exempt.*

Courts empowered to exempt paupers from the payment of the stamps in the two preceding sections.

XX. First. *All copies of papers, in whatever language the same may be written, which may be furnished to any person at his own application, or in consequence of any regulation requiring him to take such copies, by the Board of Revenue, or collectors of the revenue, or other revenue officer being a covenanted servant of the Company, regarding the public revenue, or any matters respecting the duties of their offices, shall be written on rolls or sheets of stampt paper of a particular size and description. For every roll or sheet or part of a roll or sheet, so stampt, which may be expended in making such copy, the party to whom the same shall be furnished shall pay at the respective rates of one rupee, or eight annas, or four annas, or two annas, according as may be specified in the stamp affixed to the paper used.*

All copies of papers furnished by the Board of Revenue, or the collectors, or revenue officers, to be written on stampt paper.

Rates of the stamp duties.

Second. *The stamps to the used for the rolls or sheets shall have respectively an inscription to the following effect, in the Persian and Bengal languages and characters, and the Hindoostanee language and Nagree characters:*

Inscription on the stamps.

Copy of revenue papers, "one rupee."
or "eight annas."
or "four annas."
or "two annas."

Third. *On the receipt of this regulation, the Board of Revenue are to submit to the Governor General in Council, samples of the several sizes and descriptions of paper on which they would recommend the copies of the several descriptions of revenue papers to be written, with their opinion as to the stamp which they would recommend to be affixed to each description of paper, that the Governor General in Council may determine on the size and description of paper to which the several stamps shall be affixed, and that the superintendent may be ordered to supply the same accordingly.*

Board of Revenue to furnish the Governor General in Council with samples of the paper, that he may determine on the same, and the stamps to be affixed.

Fourth. *The collectors, and the Board of Revenue through their secretary, are to apply in writing to the superintendent of the stamp office for such quantity of paper as they may occasionally require, and are to account for the quantity expended, as often and under such rules, as may be prescribed to them.*

Board of Revenue and the collectors to apply to the superintendent of the stamp-office for paper.

Fifth. *After the receipt of this regulation, and the requisite supply of paper in the first instance, if any collector, or any European or native officer, under the Board of Revenue or a collector, shall attest or furnish, or knowingly allow any person to attest, furnish, or take, a copy of any paper relating to any matter respecting his office, or the duties thereof, excepting on the prescribed stampt paper, the party so offending shall be liable to be dismissed from his office; and the transcript shall not be admitted as a true copy, or otherwise received by any court of judicature, magistrate, board, collector, or any officer being a civil covenanted servant of the Company, to whom the same may be presented in his official capacity, until the party exhibiting the same shall have paid a penalty of ten times the amount of the duties which the judge of the* zillah *or city court, or collector of the jurisdiction,*

Penalty for collectors or revenue officers furnishing copies of papers excepting on stampt paper.

Copies so furnished not to be admitted in evidence or received, until the party exhibiting them shall have paid a penalty of ten times the amount of the duties.

jurisdiction, may compute would have been chargeable on such documents, if they had been written on stampt paper, and until he shall also have produced a receipt from the register of the said court, or the collector of the district or jurisdiction, shewing that such penalty has been paid.

After the 31st December 1797, all obligations for the payment of sums of money exceeding fifty rupees, (excepting bills of exchange,) to be written on the stampt paper herein specified.

XXI. First. *After the* 31*st December* 1797, *corresponding with the* 19*th Poose* 1204 *Bengal era; the* 27*th Poose* 1205 *Fussily; the* 19*th Poose* 1205 *Willaity; the* 27*th Poose* 1854 *Sumbut; and the* 19*th Rajab* 1212 *Higeree; all original bonds* (tumassooks), *promissory notes* (teeps), *or other written obligations, save and except bills of exchange* (hoondees), *for the payment of a sum of money exceeding fifty rupees of whatever currency, exclusive of any interest which may be stipulated to be paid thereon, shall be written on stampt paper, for which the following rates, to be specified in the stamps, shall be paid.*

Rates of the stamp duties.

If the obligation be for the payment of a sum exceeding fifty rupees, but not above one hundred, ... "*four annas.*"
If above a hundred, but not above one thousand, ... "*eight annas.*"
For any sum above one thousand, ... "*one rupee.*"

Inscription on the stamps.

Second. *The respective stamps for the paper to be used in writing such obligations, shall have an inscription to the following effect, in the Persian and Bengal languages and characters, and in the Hindoostanee language and Nagree character.*

Obligation for sums above fifty rupees, and not above one hundred, ... "*four annas.*"
Obligation for sums above a hundred rupees, but not above a thousand, "*eight annas.*"
Obligation for sums above one thousand, ... "*one rupee.*"

Penalty in cases of such obligations not being written on stampt paper.

Third. *After the date above mentioned, any written obligation for the payment of a sum of money exceeding fifty rupees of whatever currency, exclusive of any interest that may be due thereon, which shall be written on any other paper excepting stampt paper as above prescribed, shall not be received or admitted in evidence or otherwise, in any court of judicature, nor by any civil covenanted servant of the Company to whom the same may be presented in his official capacity, until the party presenting it shall have paid the penalty of ten times the amount of the stamp duty which would have been payable, had the obligation been written on stampt paper, and until he shall have produced a receipt from the register of the* zillah *or city court, or the collector of the jurisdiction, shewing that such penalty has been paid.*

Board of Revenue to procure from the collectors samples of the size and description of paper, and to forward it to the Governor General in Council, that he may determine thereon, and on the stamps to be affixed.

Fourth. *On the receipt of this regulation, the Board of Revenue shall ascertain from the collectors of the revenue the size and description of paper, on which the different descriptions of obligations for the payment of money in their respective jurisdictions, are usually written, and shall forward samples thereof to the Governor General in Council, that he may determine on the size and description of paper to which the stamps shall be affixed.*

Collectors to procure the stampt paper from the superintendent.

Fifth. *The collectors of the several* zillahs *shall apply to the superintendent of the stamp-office for the requisite quantity of stampt paper for writing obligations in their respective* zillahs; *and the collectors of Behar proper, Dacca Jelalpore, Moorshedabad, and Benares respectively, shall apply for the quantity requisite for the cities of Patna, Dacca, Moorshedabad, and Benares, and shall account for the same in such manner as may be prescribed to them.*

Collectors authorized to distribute stampt paper to persons to dispose of the same.

Sixth. *That individuals may always be able to procure stampt paper for the purpose of preparing such written obligations, the collectors shall transmit supplies thereof to the* cauzies, tehsildars, *native commissioners, authorized* vakeels, *or other officers, or to any persons whom they may appoint to dispose of the same, in the several* pergunnahs, *wards, or places in their respective jurisdictions; and the parties to whom they may so transmit such paper, shall account for and pay to the collector fourteen annas in each rupee of the sums which they may receive for such paper, in such manner as may be prescribed to them, and shall appropriate the remaining two annas to their own use for their trouble, and on condition that they shall be responsible for any such paper so transmitted to them, which may be destroyed, or damaged, or not forthcoming after they shall have received charge of it.*

Two annas in each rupee of the amount of the duties to be allowed to the persons disposing of the paper on the conditions herein specified.

Seventh. *The collectors are also authorized to dispose of any quantity of such stampt paper to persons who may be desirous of purchasing the same, on paying fourteen annas in each rupee of the amount of the prescribed duties.*

Collectors may sell any quantity of paper, at the rate of fourteen annas for each rupee.

XXII. To obviate doubts, it is declared, that where a claim shall be made for a sum of money, or other property, or any matter whatsoever, under a written obligation, or instrument, written on stampt paper, the circumstance of the obligation or instrument being written on such paper, shall not be considered as any evidence of the validity or authenticity of the obligation or instrument, or of the justness of the claim, any more than if this regulation had never been enacted.

Stampt paper to be no evidence of the justness of any claim made under an instrument written upon it, or of the validity or authenticity of any instrument.

XXIII. First. *It is to be understood, that the pleadings specified in Section* 17, *and all original deeds or papers, or copies of deeds or papers, which may be prepared or attested by the* cauzies *or their officers, and all copies of papers that may be furnished by any of the courts of judicature, or the Board of Revenue, or the collectors, and which are directed in the preceding sections to be written on stampt paper, are to be written as they have hitherto usually been, both with regard to the size of the writing, the number of lines in each page, or space, and all other matters respecting their engrossment.*

All writing on stampt paper to be engrossed in the usual manner, as to the size of the writing, number of lines, and all other matters.

Second. *In order to prevent the objects of the rules in the preceding sections relating to stamp duties, either as they relate to the preventing the introduction of superfluous matter into the pleadings of parties in suits before the courts, or to the unnecessary occupation of the time of the public officers, or to the augmentation of the public revenue, being defeated by joining plain or other paper not stampt, to a roll or sheet of stampt paper, so that the papers thus joined may contain more matter than could have been comprised in the stampt paper only properly engrossed; and with a view also to guard against all frauds and evasions of the said rules; it is declared, that if the matter to be inserted in any deed, or other instrument, above directed to be written on stampt paper, cannot be comprised in one sheet or roll of paper properly engrossed, the remaining matter must be written on one or more additional rolls or sheets, so that the several rolls or sheets of which the document may consist, whether joined together with gum or otherwise, or separate, may have the stamp thereon; and it is further declared, that in the event of any document required to be written on stampt paper being exhibited, and each of the distinct pieces of paper of which the same may consist, whether joined as above specified, or separate, shall not have the stamp thereon, the officers and parties concerned in preparing, transcribing, or exhibiting the same, shall be liable to the same penalties as if no part of the document had been written on stampt paper.*

Every distinct piece of paper, of which a document may consist, whether the pieces be separate, or joined by gum or otherwise, to have the stamp on it.

Penalty.

Third. *In all the cases specified in this regulation, in which parties are declared to be liable to a penalty of ten times the amount of the stamp duties, for exhibiting before a court of judicature or a public officer, original instruments or papers, or copies thereof, not written on stampt paper, which are required to be written on such paper, the courts of judicature are empowered to mitigate the penalty to the party exhibiting the same, in instances in which from his circumstances or the nature of the case, they shall deem it proper so to do, provided that the penalty be not reduced to less than double the amount of the stamp duties.*

Discretionary power vested in the courts, of reducing the penalty to parties exhibiting documents not written on stampt paper, which are required to be written thereon.

XXIV. All rowannahs *by which the transportation or carriage of any goods (salt and rice only excepted) may be permitted or authorized, to which the seal and signature of any of the collectors of the customs in the provinces of Bengal, Behar, Orissa, and Benares, or their officers, are or may be required to be affixed, shall be written on stampt paper, for which the party applying for the same shall pay at the following rates:*

All custom-house rowannahs to be written on stampt paper.

Rates of the stamp duties.

If the value of the goods shall not exceed fifty rupees, ... four annas.
If above fifty, and not above one hundred and fifty, ... eight annas.
If above one hundred and fifty, and not above three hundred, ... one rupee.
If above three hundred, and not above a thousand, ... two rupees.
If above a thousand, and not above five thousand, ... four rupees.
If above five thousand, and not above ten thousand, ... ten rupees.
If above ten thousand rupees, ... twenty rupees.

Second. *The stamps on the paper on which the* rowannahs *shall be written, shall have an inscription to the following effect, in the Persian and Bengal languages, and the Hindoostanee language and Nagree character:*

Inscription on the stamps.

"*Customs*" "*four annas,*" *or the rates above specified according to the value of the goods.*

Board of Trade to transmit to the Governor General in Council samples of the paper, that he may determine on the description to be used.

Third. *On the receipt of this regulation, the Board of Trade, in their department of customs, are to transmit to the Governor General in Council, samples of the size and descriptions of the paper required for* rowannahs, *on the receipt of which, the Governor General in Council will determine on the size and description of paper to which the stamps shall be affixed, and the superintendent will be instructed to furnish the same accordingly. The Board are to instruct the collectors of the customs to apply from time to time to the superintendent of the stamp-office for the requisite supplies of stampt paper, for which they are to account according to such rules as may be prescribed to them.*

Collectors of the customs to apply to the superintendent of the stamp-office for paper.

Penalty for officers furnishing rowannahs *written on paper not stampt.*

Fourth. *After the receipt of this regulation, and the requisite supply of stampt paper in the first instance, if any European or native officer in the department of customs shall affix his seal or signature to any* rowannah, *which shall not be written on stampt paper as above prescribed, he shall be liable to be dismissed from his office, on the fact being proved to the satisfaction of the Board of Trade, if the party so offending shall be a native officer, or to the satisfaction of the Governor General in Council, if he shall be a covenanted servant of the Company. It shall be the duty of all public officers to whom any* rowannahs, *not written on stampt paper as above prescribed shall be presented, to report the same to the Board of Trade for the information of the Governor General in Council, that the officer or officers may be proceeded against accordingly as above prescribed.*

Charchitties not to be written on stampt paper.

Fifth. *Exchanged* rowannahs, *and* charchitties, *or passes, are not required to be written on stampt paper.*

Sunnuds to cauzies and authorized vakeels *to be written on stampt paper.*

Size and description of the paper to be proposed by the Sudder Dewanny Adawlut.

Rate of the stamp duties.

XXV. First. *The* sunnuds *to all* cauzies *and to all authorized* vakeels *in the several courts of judicature who may be hereafter appointed, shall be written on paper of a certain size and description, which shall be proposed by the Sudder Dewanny Adawlut, and fixed by the Governor General in Council, for which the party appointed shall pay twenty-five rupees.*

Inscription on the stamps.

Second. *The stamp on the paper shall be to the following effect, in the Persian language and character:*

"Sunnud *of the office of* cauzy," ..... "*twenty-five rupees.*"

"Sunnud *of the office of* vakeel," ..... "*twenty-five rupees.*"

Sudder Dewanny Adawlut to apply to the superintendent for paper.

Vakeels not to receive their sunnuds, nor to be allowed, to act until the stamp duty be paid.

Third. *The court of Sudder Dewanny Adawlut shall apply to the superintendent of the stamp-office for the requisite number of stampt rolls or sheets of paper for preparing the* sunnuds *of the* vakeels; *and the courts to which the* vakeels *may be appointed, shall not deliver the* sunnuds *to the* vakeels, *nor allow them to act, until the stamp duty shall be paid.*

Head cauzy to apply to the superintendent for paper for the sunnuds of the cauzies.

Cauzies not to receive their sunnuds, nor to be allowed to act, until the stamp duty be paid.

Fourth. *The head* cauzy *is to apply in writing to the superintendent of the stamp-office for the requisite number of stampt rolls or sheets which he may require for preparing the* sunnuds *of the* cauzies *subordinate to him; and the judges of the* zillah *or city in which such* cauzy *may be stationed, shall not deliver the* sunnuds *to the person nominated, nor allow him to act, until the stamp duty be paid.*

Courts to account for the stamp duties received from the cauzies *and* vakeels.

Fifth. *The courts are to account for the sums received from the* cauzies *and* vakeels, *according to such rules as may be prescribed to them.*

Treasury stamp to be affixed to all stamp paper, before it is issued by the superintendent.

XXVI. First. *All paper which may be stampt by the superintendent, to be furnished to the courts, boards, or officers, authorized to apply for it by this regulation, or any other regulation which may be hereafter enacted, shall, previous to its being issued by the superintendent, be sent by him to the sub-treasurer, who shall affix a stamp to each roll or sheet, as contiguous to the stamp of the stamp-office, as may be practicable or convenient.*

Inscription on the treasury stamp.

Second. *The treasury stamp shall have the word "treasury" inscribed on it, in the English, Persian, Bengal, and Hindoostanee languages and characters.*

Paper sent by the superintendent to the treasury, to be accompanied by a letter specifying the number of pieces to which each description of stamp is affixed.

Third. *All stampt paper sent to the treasury to have the treasury stamp affixed to it, shall be accompained by a letter from the superintendent, under his official signature, specifying the date on which it may be written, and the number of rolls or sheets of the prescribed size and description, bearing the different stamps to which the treasury stamp is required to be affixed. The sub-treasurer shall superscribe the letter so received by him, with his official*

signature, as the authority to his officers for affixing the treasury stamp, and shall deposit it in his office, as a voucher to check the accounts of the superintendent.

XXVII. Five per cent. shall be deducted from the amount of all fees which may be paid after the date of the receipt of this regulation in the several courts respectively, to the authorized vakeels in the courts of civil judicature, under the existing regulations, or any regulations which may be hereafter enacted.

Five per cent. to be deducted from all fees hereafter paid to the authorized vakeels.

XXVIII. All the collections made under this regulation are to be carried to the account of Government, excepting such as are otherwise expressly appropriated.

Collections made under this regulation to be carried to the account of Government, unless otherwise appropriated.

XXIX. It shall be the duty of the accountant general, to concert with the courts of judicature, and the Boards of Revenue and Trade, the best mode of keeping the accounts of the collections made under this regulation, so as to ensure the same being duly brought to account.

Accountant General to concert with the courts and boards, the best mode of keeping the accounts of the collections made under this regulation.

XXX. Persons charged with forging the stamps, or disposing of or using forged stampt paper, knowing the same to be forged, shall be liable to commitment and trial before the courts of circuit, and to such punishment as the law may direct.

Persons charged with forging stamps, or disposing of or using forged paper, liable to be tried criminally.

A. D. 1797. REGULATION VIII.

A REGULATION *for rendering Prosecutions instituted for the Recovery of Losses sustained by Theft and Robbery in the Province of Benares, cognizable in the Courts of civil Judicature; and for ascertaining the Responsibility in such Cases of Tehsildars of Places held Khaum in the said Province; and for transferring the Nomination of the Pleaders for Government in the several Courts of Judicature, from the Sudder Dewanny Adawlut, to the Governor General in Council.*—PASSED *by the Governor General in Council, on the 30th May 1797; corresponding with the 15th Jeyte 1204 Bengal era; the 16th Jeyte 1204 Fussly; the 15th Jeyte 1204 Willaity; the 16th Jeyte 1854 Sumbut; and the 28th Zeekaud 1211 Higeree.*

Preamble.

PROSECUTIONS instituted under Regulation XVII. 1795, against *tehsildars* or *aumils* to recover losses sustained by theft and robbery; and by *tehsildars* against the landholders and farmers for indemnification, having been held to be cognizable in the magistrate's court; and it being judged expedient that such prosecutions should in future be filed and decided in the courts of civil jurisdiction; and doubts having arisen whether *tehsildars* of places held *khaum* are to be held answerable for losses by robbery and theft; and whereas by Section 23, Regulation VII. 1793, the nomination of the pleaders for Government in the several courts of judicature in the four provinces, is vested in the Sudder Dewanny Adawlut; and it being consistent with the principles of the regulations, that these pleaders should be nominated by the Governor General in Council, as exercising the executive authority, in the same manner as other parties in suits appoint their pleaders; the following rules have been enacted, and are to be in force from the date of the receipt of this regulation in the respective courts.

All prosecutions against *tehsildars*, and by *tehsildars* against landholders, and farmers, under Section 3, Regulation XVII. 1795, declared cognizable in the *dewanny* courts.

II. All prosecutions instituted against *tehsildars* or *aumils* under Section 3, Regulation XVII. 1795, to recover losses sustained by theft and robbery in the province of Benares, and all prosecutions by *tehsildars* and farmers for indemnification when they have been made answerable in the first instance, shall be filed and decided in the *dewanny* courts, subject to all the rules provided by the existing regulations for other civil suits cognizable in the said courts.

Tehsildars of places held *khaum*, equally answerable for losses sustained by theft and robbery with other *tehsildars*.

III. That doubts may no longer be entertained, whether *tehsildars* of places held *khaum* shall be made answerable, under the rules and restrictions contained in Section 3, Regulation XVII. 1795, for losses sustained by theft and robbery in the province of Benares, it is hereby declared, that such *tehsildars* shall be held responsible equally with all other *tehsildars*.

Governor General in Council to appoint the vakeels of Government from amongst the authorized vakeels.

IV. The pleaders for Government in the several courts of judicature in the four provinces, directed to be selected from the authorized* vakeels *in the respective courts, shall in future be appointed by the Governor General in Council, instead of the Sudder Dewanny Adawlut, as prescribed by Section 23, Regulation VII. 1793.*

* Sections 4. and 5. are rescinded by Section 2, Regulation XXVII. 1814.

Vakeels of Government to be furnished with a written authority.

V. Section 25, *Regulation VII.* 1793, *is hereby rescinded; and on the receipt of this regulation, the court of Sudder Dewanny Adawlut shall withdraw the* sunnuds *issued by them under that section from the* vakeels *now acting under those* sunnuds, *and shall grant to them* sunnuds *as authorized* vakeels *of the courts to which they are respectively attached; and the said* vakeels, *and all other* vakeels *who may be hereafter appointed to act in the several courts on behalf of Government, shall be furnished with a written authority for that purpose in the English and Persian languages, attested by the secretary to the Government.*

A. D. 1798. REGULATION I.

A REGULATION *to prevent Fraud and Injustice in conditional Sales of Land under deeds of Bye-bil-wuffa or other Deeds of the same nature.*—PASSED *by the Vice-President in Council, on the* 19*th January* 1798; *corresponding with the* 9*th Maug* 1204 *Bengal era; the* 17*th Maug* 1205 *Fussily; the* 9*th Maug* 1205 *Willaity; the* 17*th Maug* 1854 *Sumbut; and the* 1*st Shabaan* 1212 *Higeree.*

Preamble.

IT has long been a prevalent practice in the province of Behar to borrow money on the mortgage and conditional sale of landed property, under a stipulation that if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute. This species of transfer has in the above province been usually denominated *bye-bil-wuffa*; and the same transaction is common in Bengal under an instrument termed *kut-cobooleah*. It doubtless exists also, under deeds of the above or similar denominations in Orissa and Benares; and since the promulgation of the rules respecting interest contained in Regulation XV. 1793, it has become more prevalent; particularly in the province of Behar, wherein instances have occurred in which persons lending money on *bye-bil-wuffa*, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, have denied the tender, or evaded receiving payment of the money due to them within the period limited for the discharge of it. In such cases the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate. It is necessary, therefore, for the security of the borrower in such transactions, that he should have the means of establishing before a court of judicature his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who, if he mean to act fairly, will also derive a benefit from a clear rule being laid down, whereby it may be readily ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it, within the period agreed upon between the parties; or whether, from his having omitted to perform the conditions of such redemption, the sale is become absolute; and the property included therein finally transferred to the lender. For the above purpose, and for the prevention of other abuses in the transactions referred to, the Governor General in Council has passed the following rules, to be considered in force in the provinces of Bengal, Behar, Orissa, and Benares, from the date of the receipt of this regulation by the several courts respectively.

Persons who have borrowed money on a conditional sale of land, and who may be desirous of redeeming the land by payment of the money lent upon it, how to proceed for this purpose.

II. In all instances of the loan of money on *bye-bil-wuffa*, or on the conditional sale of landed property, as explained in the preamble to this regulation, however denominated, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it, with any interest due thereon within the stipulated period, is at liberty, on or before the date stipulated, either to tender and pay to the lender the amount due to him; taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied, or, without any tender to the lender, to deposit the amount due to him on or before the stipulated date, in the *dewanny adawlut* of the city or *zillah* in which the land may be situated; and the judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date and for what

May, within the stipulated period, either tender and pay the amount due, to the lender, or deposit the same in the local *dewanny adawlut*.

Receipt to be given by the judge for such deposit.
Notice to be given to the lender, and payment to be made to him, under restrictions.
Specification of the deposit required.

what purpose such deposit may have been made. He shall also, at the same time, cause a written notice of such deposit to be delivered to the lender, and on the application of the latter, and his surrender of the conditional bill of sale, or shewing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the court. That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows. When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum; or, if interest be payable, and no rate has been stipulated, with interest at the established rate of twelve per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession. In either case, a deposit made as above required, shall be considered to preserve to the borrower his full right of redemption, and if the land be in the possession of the lender, shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section. Provided, however, that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due to the lender, for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower, who will not, however, in such cases, be entitled to the recovery of his lands until it be admitted, or established that he has paid the full amount due from him.

Rights of the borrower preserved by making the required deposit.

Proviso, with respect to deposits less than above required, if alleged to be the total amount due.
Such deposits to be also received; and to preserve the borrower's rights, if admitted, or established, to be the total amount due.

When the lender has possessed the land, and an adjustment of accounts may be necessary, he is to account for the proceeds of the estate, on the principles prescribed in Regulation XV. 1793.
Exception.

III. In all instances wherein the lender on a *bye-bil-wuffa*, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in Regulation XV. 1793, as far as the same may be applicable to the nature of the case. But such part of Section 10, of the above regulation, as directs that the mortgages therein referred to, are to be considered as cancelled and redeemed whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufruct of the mortgaged property, or otherwise liquidated by the mortgagee, being inapplicable to the conditional sales referred to in this regulation, it is hereby declared not to apply thereto.

Teeps not to be considered a legal tender, in cases referred to, unless accepted by the lender.
Such acceptance how to be proved.

IV. A *teep* for the repayment of money lent on the conditional sales referred to in this regulation, shall not be considered a legal tender, unless accepted as such by the lender, the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

Nothing in this regulation to alter the contract between the parties.
And all questions of right to be regularly determined by the civil courts.

V. Nothing in this regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers, (illegal interest excepted,) the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the courts of civil justice.

A. D. 1798. REGULATION II.

A REGULATION *for authorizing a Review of Causes decided by the civil Courts in certain Cases; and for explaining Parts of Regulations IV. V. and VI. 1793.*—PASSED *by the Vice-President in Council, on the 9th February* 1798; *corresponding with the 30th Maug* 1204 *Bengal era; the 8th Phaugun* 1205 *Fussily; the 30th Maug* 1205 *Willaity; the 8th Phaugun* 1854 *Sumbut; and the 22d Shabaan* 1212 *Higeree.*

Preamble.

BY the existing regulations, no authority is vested in the civil courts of judicature to revise their proceedings after judgment has been passed by them; nor can the ends of justice require such review in cases open to appeal; as in all such cases any errors or other defects in the trial may be remedied by the usual course of appeal: but in cases wherein the regulations do not allow an appeal, although the exercise of an unqualified power of revision with a view to reconsider the grounds of the decision would tend to depreciate the value of property held under the decrees of the courts of justice, and be otherwise liable to many serious objections, particular cases may occur in which it would be proper and necessary that the civil courts should have the power of revising their proceedings for the purpose of correcting incidental errors not affecting the principle of the decision; or even for amending the principle of the decision, if it should subsequently appear erroneous, either on the face of the decree, or on the discovery of new matter or evidence which could not be had or used at the time when the decree was passed. Other substantial reasons may also occur to render a revision just and necessary; which, as they cannot be all foreseen and provided for, must be left to the discretion and judgment of the courts before whom the proceedings on the case may have been held, subject however to the judgment and control of the superior court of Sudder Dewanny Adawlut, that the grounds on which a review is granted, as well in that court as in the several provincial, *zillah*, and city courts, may be uniform; and that it may not in any instance be allowed without due deliberation and circumspection. Further, as doubts have arisen respecting the meaning and intention of parts of Section 15, of Regulation IV. 1793; Sections 8. and 12. of Regulation V. 1793; and Sections 4, 5, and 10, of Regulation VI. 1793; to remove such doubts, and to provide for the revision of causes decided in the cases above referred to, the Governor General in Council has enacted the following rules, to be considered in force in the provinces of Bengal, Behar, Orissa, and Benares, from the date of the receipt of this regulation by the several courts respectively.

Petitions for the review of causes, from the decision in which no appeal can be had, to be presented to the court passing such decision.

II. Any persons considering themselves aggrieved by the decree of a* zillah, *city, or provincial court, from which decree no appeal can be had under the existing regulations to any superior court; and who from the discovery of new matter or evidence which was not within their knowledge, or could not be adduced by them, at the time when the decree was passed, or for other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them, are at liberty to present a petition for this purpose (on stampt paper) to the court in which the decree in question may have been passed;*

* This and the following Section are rescinded by clause first, Section 4, Regulation XXVI. 1814.

Report to be made to the Sudder Dewanny Adawlut, if the judges shall consider it necessary for the due administration of justice.

Instructions of the Sudder Dewanny Adawlut to determine the admission or rejection of the review desired, as well as what new evidence shall be admitted.

But no reference to the Sudder Dewanny Adawlut necessary, if the judges of the court, wherein the final decree was passed, deem the reasons urged for a review thereof insufficient.

and, if the judge or judges of such court shall, on consideration of the reasons urged by the party, be of opinion that the review desired is necessary to correct an evident error in the judgment, or otherwise for the due administration of justice, they shall report the same, with the grounds of such opinion, to the court of Sudder Dewanny Adawlut; transmitting at the same time a copy and translation of the petition presented to them; and shall be guided by the instructions they may receive from that court in admitting or rejecting the prayer of such petition; as well as in the admission of evidence, if the review be granted, on the further proceedings to be held by them in consequence. Provided, however, that no reference to the Sudder Dewanny Adawlut shall be considered necessary in cases wherein the judge or judges of the court in which the final decree may have been passed, shall deem the reasons urged for a revision thereof insufficient; their rejection of the petition for a review in all such cases being hereby declared conclusive.

Sudder Dewanny Adawlut authorized to grant the review desired in certain cases.

But no evidence or matter which might have been before used, to be a sufficient ground for granting a review; except for special reasons, to be recorded.

Sudder Dewanny Adawlut authorized to direct the admission or rejection of new evidence in certain cases; and to pass such orders as they may deem just; and such orders to be final, except in cases appealable to the King in Council.

III. The court of Sudder Dewanny Adawlut, in cases referred to them by the provincial, zillah, and city courts, as well as in all cases wherein petitions may be preferred to them for a revision of their own judgments, not open to an appeal to the King in Council, are authorized to grant the review desired; if, on due consideration of the reasons urged for the same, the circumstances of the case appear in justice to require it; such, for instance, as an error in judgment appearing on the face of the decree; or the discovery of new matter or evidence which could not be had or used at the time when the decree was passed; but no new evidence or matter then in the knowledge of the parties, which might have been used before, shall be a sufficient ground for granting a review, unless for special reasons the court of Sudder Dewanny Adawlut should see just cause to admit the same, in which case such reasons are to be recorded at large in their proceedings. The above court are further authorized, whenever they may judge it proper to grant a review, to direct the admission or rejection of any new evidence that may be offered; as well as generally to pass such orders upon the case as they may deem just and equitable; and all orders so passed by them (except in cases appealable to his Majesty in Council) shall be decisive and final.

Explanation of Section 15, Regulation IV. 1793; and Section 3, Regulation VIII. 1795.

Intended that the law officers of the several civil courts should expound the law; and that the judges should be guided by their exposition in common cases.

But not in particular cases wherein they might have reason to doubt the accuracy of such exposition.

In such cases, a further exposition of the law from the officers of the superior courts not meant to be precluded.

But the courts are not authorized to refer any point of law to individuals not acting in a public capacity.

Though they may receive law opinions tendered to them by the parties, and, if deemed proper, refer them to their law officers, or those of the superior courts.

IV. By Section 15, of Regulation IV. 1793, and Section 3, Regulation VIII. 1795, the judges of the *zillah* and city courts are directed to decide (in certain suits therein referred to) according to the Mahomedan or Hindoo laws; and the Mahomedan and Hindoo law officers of the court are required to attend to expound these laws, by which it was evidently intended that the law officers attached to the several civil courts, should expound the law in the cases referred to in the above sections; and that the judges should be guided by such exposition in all common cases wherein they might have no reason to doubt the accuracy of it: but, in particular cases, wherein they might entertain such doubt, either from the objections of the parties, founded on other law opinions exhibited by them; or from a reference to the known books of Mahomedan or Hindoo law; or, from whatever cause, if the judge or judges trying the suit should consider the exposition given by their immediate law officer insufficient; it was not meant to preclude them from obtaining a further exposition from the law officers of the superior courts by a reference of the case to them through the judges of these courts, as has been the occasional practice in some of the courts; and is now declared to be at the discretion of all the *zillah*, city, and provincial courts, whenever they may deem such reference necessary for the purposes of justice. It is at the same time to be observed, that the above courts are not authorized to refer any point of law to individuals not acting in a public capacity, and to whom consequently no responsibility attaches; although there is no objection to any of the courts receiving law opinions, quoting or referring to authorities, tendered to them by the parties during the trial of the suit in support of their claims; and if the courts shall deem it proper so to do, referring them to their own law officers or those of the superior courts, to enable them to determine on their due weight and application to the case.

Section 8. of Regulation V. 1793, and second clauses of Sections 4. and 5. Regulation VI. 1793, explained.

Above section and clauses rescinded, and the three following sections substituted for them.

V. It was not intended by Section 8, of Regulation V. 1793, or by the second clauses of Sections 4. and 5. of Regulation VI. 1793, to require the provincial courts, or Sudder Dewanny Adawlut to enter into the merits of the cases therein referred to, but the terms of the above section and clauses having been understood to admit some doubt on this head, they are hereby rescinded, and the three following sections are substituted for them respectively.

VI. The provincial courts are empowered to receive any petitions respecting suits or matters that may be depending, or have been decided in any *zillah* or city court within their respective jurisdictions; and provided it shall be proved to their satisfaction that the petition was presented, or that due means were used to effect its being presented, to the judge, and that he refused or omitted to receive it, and proceed on it, or, in the lastmentioned case, that undue means were used by any of the officers of the court to prevent the petition being presented, the court are empowered to issue a precept under the seal of the court, and attested by the register, commanding the judge to receive the petition, and to proceed respecting it, according to the regulations.

Cases in which the provincial courts may receive petitions respecting suits or matters depending, or decided in any *zillah* or city court, and how to proceed with such petitions.

VII. The Sudder Dewanny Adawlut are vested with authority to receive any petitions respecting suits or matters that may be depending, or have been decided, in any *zillah* or city court; and provided it shall be proved to their satisfaction, that the petition was presented to the judge of such court, and that he refused or omitted to receive it, and proceed on it, and that the complainant applied to the provincial court of appeal of the division, and that such court omitted or refused to grant the precept specified in Section 6. of this regulation, the court are empowered to issue a precept under the seal of the court, and attested by the register, commanding the judge to receive the petition, and to proceed respecting it according to the regulations.

Cases in which the Sudder Dewanny Adawlut may receive petitions respecting suits or matters depending, or decided in any *zillah* or city court, and how to proceed with such petitions.

VIII. The Sudder Dewanny Adawlut are vested with authority to receive any petitions respecting appeals or matters that may be depending, or have been decided, in any provincial court of appeal; and provided it shall be proved to their satisfaction, that the petition was presented to the provincial court, and that they refused or omitted to receive it, the court are empowered to issue a precept under the seal of the court, and attested by the register, commanding the provincial court to receive the petition, and proceed respecting it according to the regulations.

Cases in which the Sudder Dewanny Adawlut may receive petitions respecting appeals or matters depending, or decided in any provincial court, and how to proceed in such cases.

IX. Section 12. of Regulation V. 1793, and Section 10. of Regulation VI. 1793, contain each a clause, that in all cases of appeal the party appealing is to give good and sufficient security in such sum as the court receiving the appeal may deem proper, upon a consideration of the amount or value of the property or thing decreed (provided that the security so to be taken, be not in any case for a greater sum than five hundred rupees) for the payment of the cost that the court of appeal may judge it proper to award, and for the performance of the decree which it may pass. The intention of the above clauses not having been fully understood; and the limitation of the security contained in them having been found objectionable, they are hereby rescinded, both in Regulations V. and VI. 1793; and the following section is substituted for them.

Explanation of clauses in Section 12, of Regulation V. 1793; and Section 10. of Regulation VI. 1793; requiring security from the party appealing, for the costs of the appeal, and performance of the decree passed thereupon.

Above clauses rescinded; and the following section substituted for them.

X. In all authorized cases of appeal, the party desirous of appealing, is, with his petition of appeal, to deliver good and sufficient security for the payment of the costs that may be awarded on the appeal, including the fees of his pleader, in case he shall intend to employ any on his appeal. Without such security, or without proof of inability to find the same, as required with respect to paupers by Regulation XLVI. 1793, no appeal shall be admitted; and in like manner as has been declared in Section 6. of Regulation VI. 1797, with respect to the fees on appeals prescribed by that regulation; it is hereby declared, that the presenting a petition of appeal, without the security required by this section, before the expiration of the time limited for appealing, shall not be considered as preserving to the appellant his right of appeal, as far as respects the limitation in question. Provided however, that if a party appealing, who may declare his intention to prosecute his appeal in person, shall afterwards be desirous to appoint an authorized *vakeel* to act for him; and with his petition to this effect, or the *vakalutnamah* appointing such *vakeel*, shall deliver good and sufficient security for the fees of such pleader in addition to the security for costs before delivered by him, such further security shall be admitted, and nothing in this regulation shall be understood to affect the right of appeal in such cases. But no pleader shall in any instance be allowed to act in any court until security has been given for his established fees; except under the provisions for paupers contained in Regulation XLVI. 1793, and in the special cases provided for by Regulation XIII. 1795.

Parties desirous of appealing, to deliver good security for the costs that may be awarded on the appeal, including fees of pleaders, if it be intended to employ any.

No appeal to be admitted without such security; or proof of inability to find the same.

Presenting a petition of appeal, without the required security, before the expiration of the time limited for appealing, declared not to preserve the right of appeal.

But a party declaring his intention to prosecute his appeal in person, may afterwards appoint an authorized pleader, with separate security for his fees.

And nothing in this regulation to affect the right of appeal in such cases.

No pleader however to act in any court until security has been given for his fees; except under provisions for paupers.

A. D. 1798. REGULATION IV*.

A REGULATION *prescribing Rules to be observed in summoning the Officers of the Salt Chokees.*—PASSED *by the Acting Governor General in Council, on the 4th May* 1798; *corresponding with the* 24*th Bysaak* 1205 *Bengal era; the* 4*th Jeyte* 1205 *Fussily; the* 24*th Bysaak* 1205 *Willaity; the* 4*th Jeyte* 1855 *Sumbut; and the* 16*th Zekaad* 1212 *Higeree.*

Preamble.

THE *resources which Government derive from the manufacture of salt, being liable to suffer much injury from the officers of the* chokees *stationed in different parts of the country to guard against illicit trade in that article, being obliged immediately to quit their stations on summonses being served upon them, either as witnesses or in consequence of any real complaint, or of any frivolous or false complaint being preferred against them by designing persons, by which an easy opportunity of passing illicit salt during their absence is afforded to smugglers, with manifest injury to the public revenue and to the fair trader in that article: the Acting Governor General in Council, with a view to remedy the evil above mentioned, has enacted the following rules.*

Board of Trade, salt agents, and ameen *at Narraingunge to furnish the judges with lists of the* chokees *and officers attached thereto, and notify all changes therein.*

II. The Board of Trade, the salt agents, and the ameen *at Narraingunge, under whose immediate superintendence the officers of the salt* chokees *act, are to be careful to keep the several judges, in whose jurisdictions the* chokees *are stationed, furnished with lists of the* chokees, *pointing out their situations, and specifying the names of the officers attached to them; and in the event of any change taking place in the situation of a* chokee, *or among the officers belonging to a* chokee, *the same shall be immediately notified to the judge.*

How summonses are to be served in civil suits against the officers of the salt chokees.

III. Persons instituting suits in the dewanny adawlut *against any of the officers of the salt* chokees *are to specify the nature of their employment; and the summonses to be served upon such officers, with a copy of the complaint against them, shall be enclosed in a sealed cover, either to the Board of Trade, the salt agent, or the* ameen *at Narraingunge, (according as the party summoned may be under the superintendence of one or otherof them,) who will, without delay, send persons to take charge of the* chokee, *and cause the party summoned to accompany the officer of the court to the court; or if the summons shall not have been committed to the charge of an officer, they shall cause such party to be conveyed before the court.*

How warrants are to be served, when the officers of the salt chokees *are charged with bailable offences.*

IV. In cases in which an officer of a salt chokee *shall be charged before a magistrate with a bailable offence, the warrant shall be served in the manner directed in the preceding section with regard to summonses; and the party to whom the warrant may be sent under cover, shall cause the officer summoned to give the requisite bail, or immediately to appear in person or by* vakeel, *as the magistrate may think proper to require in the warrant.*

Warrants for offences not bailable to be executed in the

V. If a charge shall be preferred to a magistrate on oath against any of the officers of the chokees, *for an offence that is not bailable under the regulations, and there shall*

* The whole of this regulation is rescinded by Section 2, Regulation X. 1819.

usual manner, but notice to be given to the Board of Trade, &c. of the apprehension of the salt officers.

appear to the magistrate sufficient ground for apprehending the person so charged, the warrant for their apprehension shall be executed at all times in the same manner as upon persons not chokee *officers. But the officer of the court, after securing the offender, is to give notice thereof, either to the Board of Trade, the salt agent, or the* ameen *at Narraingunge, according as the offender may be under the superintendence of one or other of them.*

Police officers to observe the rule laid down in Section 4, in all complaints preferred to them.

VI. The darogahs *of police are to observe the rule laid down in Section 4. of this regulation, in all complaints that may be preferred to them against officers of the salt* chokees.

Rules for summoning salt officers as witnesses.

VII. Summonses to officers of the salt chokees *to appear as witnesses, shall be served in the manner above prescribed in Section 3, but the judges are to be careful not to summon such officers excepting when their attendance shall be necessary, and on their appearance, they are to have them examined and dismissed with all practicable despatch, so that they may be absent from their* chokees *as short a time as possible.*

Discretionary power granted to the judges and magistrates to proceed in the usual manner in special cases, but to record their reasons for deviating from this regulation.

VIII. The rules contained in this regulation being intended only to prevent injury to the resources derived by Government from the salt manufacture, when it can be avoided without impeding the course of justice, the judges and magistrates are empowered in particular cases, in which it may appear to them indispensably necessary for the purposes of justice, to order the personal attendance of any chokee *officer, whether he may be a party or witness in the suit, or prosecution, notwithstanding any thing that may be said to the contrary in this regulation; and to cause process to be executed upon him for that purpose in the same manner as upon other individuals: but in such cases, the judges and magistrates are to record upon their proceedings their reasons for deviating from the rules above prescribed, which are to be considered as the general rules for issuing and executing such summonses and warrants; and in the summons or warrant they are to specify, that it has been specially ordered to be so executed, in virtue of the discretionary power vested in them by this section; and they are moreover strictly enjoined to refrain from every unnecessary exercise of that power.*

The person of an officer of a salt chokee *not to be removed under a decree, without previous notice to the superintending officer.*

IX. If a decree shall be passed against an officer of a salt chokee, *and the court shall order the decree to be enforced, recourse may be had to his property; but his person, if attached, shall not be removed without previous notice being given to the party under whose superintendence the officer acts, that another person may be immediately deputed to take charge of his place during his absence.*

A. D. 1799. REGULATION V.

A REGULATION *to limit the Interference of the Zillah and City Courts of Dewanny Adawlut in the Execution of Wills; and Administration to the Estates of Persons dying intestate.*—PASSED *by the Vice-President in Council, on the 3d May* 1799; *corresponding with the* 23*d Bysaak* 1206 *Bengal era; the* 14*th Bysaak* 1206 *Fussily; the* 23*d Bysaak* 1206 *Willaity; the* 14*th Bysaak* 1856 *Sumbut; and the* 26*th Zehaad* 1213 *Higeree.*

Preamble.

DOUBTS having been entertained to what extent, and in what manner, the judges of the *zillah* and city courts of *dewanny adawlut* in the provinces of Bengal, Behar, Orissa, and Benares, are authorized to interfere in cases wherein the inhabitants of the above provinces may have left wills at their decease, and appointed executors to carry the same into effect; or may have died intestate, leaving an estate real or personal; with a view to remove all doubts on the authority of the *zillah* and city courts in such cases; and to apply thereto, as far as possible, the principle prescribed in Section 15. of Regulation IV. 1793, viz. that in suits regarding succession and inheritance, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, be the general rules for the guidance of the judges; the Vice-President in Council has passed the following regulation, to be considered in force from the period of its promulgation in the above provinces respectively.

Executors to Hindoos, Mahomedans, and others not being disqualified landholders, may take charge of the estate of the deceased, and proceed in execution of their trust, without any application to the judge, or other officer of Government.

II. In all cases of a Hindoo, Mussulman, or other person subject to the jurisdiction of the *zillah* and city courts, having at his death, left a will, and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the court of wards under Regulation X. 1793, or any other regulation, relative to the jurisdiction of the court of wards, the executors so appointed are to take charge of the estate of the deceased, and proceed in the execution of their trust, according to the will of the deceased, and the laws and usages of the country, without any application to the judge of the *dewanny adawlut* or any other officer of Government, for his sanction; and the courts of justice are prohibited to interfere in such cases, except on a regular complaint against the executors for a breach of trust, or otherwise, when they are to take cognizance of such complaint, in common with all others of a civil nature, under the general rule contained in Section 8. of Regulation III. 1793; and proceed thereupon according to the regulations; taking the opinion of their law officers upon any legal exception to the executors, as well as upon the provision to be made for the administration of the estate in the event of the appointed executor being set aside, and generally upon all points of law that may occur; with respect to which the judge is to be guided by the law of the parties as expounded by his law officers; subject to any modifications enacted by the Governor General in Council in the form prescribed by Regulation XLI. 1793.

Courts of justice prohibited to interfere in such cases, except on a regular complaint.

To proceed on such complaint according to the regulations, taking the opinion of their law officers on all points of law.

Heirs of persons dying intestate, entitled to succeed to the whole estate, (and not subject to the court of wards,) or their guardians not required to apply to courts of justice for permission to take possession of the estate, as far as can be done without violence.

III. In case of a Hindoo, Mussulman, or other person subject to the jurisdiction of the *zillah* or city courts, dying intestate; but leaving a son or other heir, who by the laws of the country may be entitled to succeed to the whole estate of the deceased, such heir, if of age, and competent to take the possession and management of the estate, or if under age, or incompetent, and not under the superintendence of the court of wards, his guardian or nearest of kin, who by special appointment or by the law and usage of the country may be authorized to act for him, is not required to apply to the courts of justice for permission to take possession of the estate of the deceased, as far as the same can be done

without

And courts of justice restricted from interference without a regular complaint.

without violence, and the courts of justice are restricted from interference in such cases, except a regular complaint be preferred, when they are to proceed thereupon according to the general regulations.

More heirs than one, to the estate of an intestate, may appoint a common manager and take possession, as in the case of a single heir.

But if the right of succession be disputed, the judge, on a regular suit, to take security from the party in possession;
Or, in default of such security, may put the other claimants, giving it, in possession.

Such possession not to affect the right of property.

IV. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession, and the courts of justice are restricted from interference, without a regular complaint, as in the case of a single heir; but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the judge on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession for his or their compliance with the judgment that may be passed in the suit; or, in default of such security being given within a reasonable period, may give possession, until the suit may be determined, to the other claimant or claimants, who may be able to give such security; declaring at the same time that such possession is not in any degree to affect the right of property at issue between the parties; but to be considered merely as an administration to the estate for the benefit of the heirs who may, on investigation, be found entitled to succeed thereto.

In what cases the judge may appoint an administrator for the care and management of the estate of an intestate.

And when such administration is to cease.

V. In the event of none of the claimants to the estate of a person dying intestate being able to give the security required by the preceding section, and in all cases wherein there may be no person authorized and willing to take charge of the landed estate of a person deceased, the judge within whose jurisdiction such estate may be situated, (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions,) is authorized to appoint an administrator for the due care and management of such estate, until, in the former case, the suit depending between the several claimants shall have been determined; or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator, or otherwise, shall attend and claim the same; when if the judge be satisfied that the claim is well founded, or if the same be established after any enquiry that may appear necessary, the administrator appointed by the court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be taken from administrators appointed under this regulation; and in what manner their allowance is to be fixed.

VI. In all instances of an administrator being appointed under this regulation, he is, previous to entering upon the execution of his office, to give good security for the faithful discharge of his trust in a sum proportionate to the extent thereof; and the judge appointing him is authorized to fix for him, (subject to the approbation of the court of Sudder Dewanny Adawlut, to whom a report is to be made in such instances,) an adequate personal allowance to be paid out of the proceeds of the estate; and to be a per centage thereupon, after deducting the expences of management.

Judges how to proceed in cases of persons dying intestate; leaving personal property to which there may be no claimant.

VII. The judges of the *zillah* or city courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property, and that there is no claimant to such property, are to adopt such measures as may be necessary for the temporary care of the property, and to issue an advertisement in the current languages of the country, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose; such advertisement to be published on the spot where the property was found; at the *dewanny adawlut cutcherree* of the *zillah* or city, and, if ascertainable, at the dwelling-place of the deceased; or if the deceased were a European, in the Calcutta Gazette; after which should any person attend and satisfy the judge of his title to the property, or to receive charge thereof as executor, administrator, or otherwise, the same is to be delivered up to him; on repayment of any necessary expence incurred in the care of it. Should no claim be preferred within the twelve months next ensuing, an inventory of the property and report of the circumstances of the case, is to be transmitted to the Governor General in Council for his orders.

Nothing in this regulation to limit, or alter, the jurisdiction of the court of wards.

VIII. Nothing in this regulation is to be understood to limit or alter the jurisdiction of the court of wards in the appointment of managers, or guardians, for the disqualified landholders described in Regulation X. 1793, or in any case wherein a special power may be vested in the court [illegible] the above or any other regulation.

A. D. 1799. REGULATION IX.

A REGULATION *for further providing against Resistance to the Process of the civil Courts in the Cities of Dacca, Moorshedabad, and Patna; as well as against Resistance to the Processes of the civil Courts in General.*—PASSED *by the Right Honorable the Governor General in Council, on the* 10*th October* 1799; *corresponding with the* 26*th Assin* 1206 *Bengal era; the* 26*th Assin* 1207 *Fussily; the* 26*th Assin* 1207 *Willaity; the* 26*th Assin* 1856 *Sumbut; and the* 10*th Jemaud-ul-Awul* 1214 *Higeree.*

Preamble.

BY Section 25. of Regulation IV. 1793, any person not being a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, or a farmer of land holding a farm immediately of Government, who shall resist or cause to be resisted any process, rule, order, or decree, which may at any time issue from the court of *dewanny adawlut* established in any *zillah*, or in either of the three cities of Dacca, Moorshedabad, or Patna, on proof of the resistance, is declared liable to such fine to Government as may appear proper, upon a consideration of the situation and circumstances of the offender and the offence of which he may be convicted; but the provisions in Sections 22, 23, and 24, Regulation IV. 1793, against resistance to the processes of the *zillah* courts, by *zemindars*, independent *talookdars*, or other proprietors of land, or by dependant *talookdars*, or by farmers of land holding their farms immediately of Government, were not extended to the city courts, as no persons of these descriptions were known to reside, or to possess lands or farms within the jurisdiction of the courts established in the above cities. It having been found necessary, however, to provide against resistance to the processes of the city courts by persons of the above descriptions, the following rule is enacted by the Governor General in Council for this purpose, to be in force from the date of its promulgation in the cities of Dacca, Moorshedabad, and Patna respectively. A general qualification of the existing rules for the punishment of resistance to the processes of the civil courts is also enacted in Section 3. of this regulation, to be in force as soon as promulgated throughout the provinces of Bengal, Behar, Orissa, and Benares.

Sections 22, 23, and 24, Regulation IV. 1793, extended to the cities of Dacca, Moorshedabad, and Patna.

II. Sections 22, 23, and 24, Regulation IV. 1793, are extended and declared applicable to all instances of resistance to any process, rule, order, or decree of the civil courts established in the cities of Dacca, Moorshedabad, and Patna, by any *zemindar*, independent *talookdar*, or other actual proprietor of land, or dependant *talookdar*, or farmer of land holding a farm immediately of Government, with this further provision, viz. if the offender possess no *zemindaree*, *talook*, or other landed property within the jurisdiction of the court, whose process he may have resisted or caused to be resisted, so that no decree of forfeiture can be passed against him in pursuance of Section 22, Regulation IV. 1793, the offender, on proof of the charge against him, shall be liable to a fine to Government, to be adjudged and levied under the provisions contained in Section 25. of the above regulation.

Provision in case the offender possess no landed property within the jurisdiction of the city courts.

In what cases a fine may be substituted for the judg-

III. In all cases of resistance to the process of any *zillah* or city court of *dewanny adawlut* in the provinces of Bengal, Behar, Orissa, or Benares, if the judge of the court whose

ment of forfeiture directed by Sections 22, 23, and 24, Regulation IV. 1793, and Sections 5, 6, 7, and 8, Regulation VIII. 1795.

whose process may have been resisted, shall be of opinion that a fine to Government will be a more proper and adequate punishment for the offence than a forfeiture of the offender's estate or farm, under the provisions contained in Sections 22, 23, and 24, Regulation IV. 1793; and Sections 5, 6, 7, and 8, Regulation VIII. 1795; he is authorized, instead of the decree of forfeiture directed by the above regulations, to adjudge the offender to pay such fine to Government as may appear proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted, as provided with regard to persons not being landholders or farmers of land by Section 25, Regulation IV. 1793; and subject to the provisions in that section for an appeal from the judgment of the court. Further, in cases wherein a decree for the forfeiture of an estate or farm may be passed and transmitted to the Governor General in Council under the regulations above mentioned, instead of such decree being considered final and carried into execution, unless the Governor General in Council shall order its commutation to a fine within four weeks after the decree shall have been received by him, the decrees in question shall not be hereafter deemed final until confirmed by the Governor General in Council; and shall not be carried into execution until notice of his confirmation be received.

Decrees for the forfeiture of estates or farms under above regulations not to be deemed final, or carried into execution, till confirmed by the Governor General in Council, and notice of his confirmation be received.

A. D. 1800. REGULATION III.

A REGULATION *for authorizing the Zillah Judges to refer to the Registers of their Courts, Appeals from certain Decisions of the native Commissioners appointed under Regulation XL. 1793.*—PASSED *by the Governor General in Council, on the 13th February* 1800; *corresponding with the 4th Phaugun* 1206 *Bengal era; the 4th Phaugun* 1207 *Fussily; the 4th Phaugun* 1207 *Willaity; the 4th Phaugun* 1856 *Sumbut; and the 18th Ramzaan* 1214 *Higeree.*

Preamble.

BY Section 20. of Regulation XL. 1793, all decisions passed by the native commissioners, are declared appealable to the *zillah* and city courts: and by Section 4. of Regulation XXXVI. 1795, the decrees of the *zillah* and city judges, in appeals from such decisions, are pronounced final; but in many districts, appeals of this description have become so numerous, that the *zillah* judges are unable to prevent a large arrear from accumulating, to the great detriment of public justice. With a view to obviate this obstacle to the speedy administration of justice, the following rules have been enacted, and are to be in force from the date on which this regulation may be received by the different courts, in the provinces of Bengal, Behar, Orissa, and Benares.

Judges empowered to refer to their registers appeals from the decisions of commissioners not exceeding twenty-five rupees. Registers' decrees final on appeals so referred.

II. The judges of the *zillah* and city courts, whenever the number of appeals from the decisions of the native commissioners may be such as to render it impracticable for them to try them without neglecting their other more important duties, are hereby empowered to refer to their registers as many of such appealed causes as they may think proper, provided the property in dispute do not exceed in amount the sum of twenty-five sicca rupees: and the decrees of the registers thereon, shall be final, as in suits to the same amount, originally referred to them under Regulation VIII. of 1794.

The whole of the institution fees on appeals referred to registers, to be paid to them for their own use, after they have decided thereon.

III. The whole of the institution fees on appeals referred to the registers in conformity to the preceding section, shall be paid to them for their own use at the end of each month, with the proportions of the fees on original suits, which they are entitled to receive under clause sixth, of Section 4, Regulation VI. 1797.

A. D. 1801. REGULATION III.

A REGULATION *for putting a Stop to the Practice, which prevails in many Parts of the Company's Provinces, of Parties in Civil Suits preferring unfounded Accusations of Perjury against the Witnesses in such Suits, and unfounded Charges of Subornation of Perjury against the adverse Parties in such Suits.*—PASSED *by the Governor General in Council, on the* 19*th March* 1801; *corresponding with the* 8*th Chyte* 1207 *Bengal era; the* 19*th Chyte* 1208 *Fussily; the* 8*th Chyte* 1208 *Willaity; the* 19*th Chyte* 1858 *Sumbut; and the* 3*d Zeekad* 1215 *Higeree.*

Preamble.

BY Section 14, Regulation IV. 1793, extended to Benares by Section 2, Regulation VIII. 1795, it is enacted, that "if a witness or any person shall be guilty of wilful or corrupt perjury in any cause or matter depending in court, the judge is immediately to commit the offender to close custody, to take his trial before the court of circuit of the division in which the offence may be committed." But a practice has become very prevalent in different parts of the Company's provinces, for the parties in civil suits to prefer unfounded charges of perjury against the witnesses of their opponents, and against their own witnesses, where their evidence does not establish every point which they may have been brought to prove, and similar charges of subornation of perjury against the adverse parties in such suits. These accusations are frequently supported by gross perjury on the part of the witnesses produced in support of them; and unless checked, they will deter all men of respectability from appearing to give their testimony on oath in any court of justice, except on compulsion, and will greatly increase the difficulties which already exist, in obtaining the voluntary attendance of witnesses of this description, while exposed as at present to the disgrace of a commitment to jail, and of a public trial on a criminal charge. The only effectual remedy which can be applied to this abuse, is to take away altogether from parties in civil suits, the right of bringing forward such accusations, and to leave it in the discretion of the judge, to determine when any witnesses brought before him are guilty of perjury, which he may always be able to do by cross-questioning them minutely, and by confronting them, when necessary, with the witnesses of the adverse party. On this principle, the Governor General in Council has enacted the following rule, to be in force as soon as promulgated, throughout the provinces of Bengal, Behar, Orissa, and Benares.

Magistrates not to receive charges of perjury.

II. The magistrates of the several *zillah* and city courts shall not receive any charges of perjury, which may be preferred by parties in civil suits, either against their own witnesses, or against the witnesses of the adverse party, or subornation of perjury against the adverse parties in such suits; and all individuals whose attendance is required in the civil courts, either as plaintiffs, defendants, or witnesses, are hereby declared not to be liable to any prosecutions of this description, unless they shall be committed to take their trial by the *zillah* or city judge, under the authority vested in him by Section 14, Regulation IV. 1793.

Individuals attending in civil causes not liable to prosecutions for perjury, unless committed for trial by the judge.

A. D. 1803. REGULATION II.

A REGULATION *for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the Trial of civil Suits in the first instance, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the* 24*th March,* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

WHEREAS it is necessary for the due administration of justice, in the provinces ceded by the Nawaub Vizier to the Honourable the English East India Company, that courts for the trial of causes in the first instance, should be established in the several *zillahs* hereinafter named; and that rules should be prescribed for the guidance of the said courts; the following rules are accordingly enacted.

Zillahs in which courts shall be established.

II. Courts of *adawlut* shall be established in the several *zillahs* hereafter specified, and shall be denominated after the *zillah* in which they are respectively established, as follows:

Moradabad.
Bareilly,
Etawah.
Furruckabad.
Cawnpore.
Allahabad.
Goruckpore.

Of the jurisdiction of the *zillah* courts.

III. The jurisdiction of the *zillah* courts shall extend to all civil suits, arising within the districts and places which are, or shall be included in the *zillahs*, in which they are respectively established.

Zillah courts to have jurisdiction over all persons not British subjects.

IV. All natives, and other persons not British subjects, are hereby declared to be amenable to the jurisdiction of the *zillah* courts.

Of what suits the *zillah* courts are to have cognizance.

V. The *zillah* courts are empowered to take cognizance of all suits and complaints respecting the succession or right to real or personal property, land rents, revenues, debts, accounts, contracts, partnerships, marriage, cast, claims to damages for injuries; and generally, of all suits and complaints of a civil nature, in which the defendant shall come within any of the descriptions of persons mentioned in Section 4; provided that the landed, or other real property, to which the suit or complaint may relate, shall be situated, or in all other cases, the cause of action shall have arisen, or the defendant at the time when the suit may be commenced shall reside as a fixed inhabitant, within the limits of the *zillah* over which their jurisdiction may extend.

British subjects, with certain exceptions, not to be permitted to reside in the Ceded Provinces, excepting

VI. The *zillah* courts are hereby vested with jurisdiction over all British subjects, (excepting King's officers serving under the presidency of Fort William, and the covenanted civil servants of the Company, and their military officers,) so far as not to allow them to reside,

under the conditions herein specified.

or take up their abode, within their respective *zillahs*; unless such British subjects shall have obtained the permission of the Governor General in Council for that purpose, and unless they shall execute the bond prescribed in Regulation XVIII. 1803, to render themselves amenable to the court, in all suits of a civil nature, which may be instituted against them by natives, or other persons described in Section 4, in which the amount claimed shall not exceed five hundred sicca rupees.

Collectors of the revenue and customs, commercial residents, salt agents, mint and assay masters, and their respective officers, amenable to the courts for acts done in their official capacity.

VII. Collectors of the revenue, and their assistants and native officers, commercial residents, and agents, and their assistants, and native officers employed in the provision of the investment; salt agents and their assistants, and native officers concerned in the manufacture or sale of salt; the collectors of the customs, and their assistants, and native officers employed in the collection of the customs, or other duties; the mint and assay masters and their assistants, and native officers, are hereby declared amenable to the *zillah* court in the jurisdiction of which they shall reside, or carry on the public business committed to their charge, for any act or acts done in their official capacity, in opposition to any established regulation.

Jurisdiction of the *zillah* court of Furruckabad, not to extend to the person of the Nawaub.

Rule with regard to his dependants.

VIII. The following article being the sixth article of a treaty, concluded with the Nawaub of Furruckabad, on the 4th of June, 1802, is hereby enacted into a rule, for the guidance of the *zillah* court of Furruckabad.

"Article Sixth. The authority of the court of *adawlut* shall not extend to the person of the Nawaub; but as his connections and dependants are undefined, and as it is the object of the British Government to introduce a fair and impartial administration of justice throughout the province of Furruckabad, it is agreed, that whatever complaint may be preferred against any of the Nawaub's dependants, shall in the first instance be referred to the Nawaub; and in the event of the complainant not receiving speedy justice, or being dissatisfied with the Nawaub's decision, the complaint shall be decided in the *adawlut*."

No court is to receive a suit previously instituted in another court in which it may be cognizable.

Court in which the second suit may be instituted, to dismiss it with costs to be paid by the party suing.

Further penalty for instituting such second suits, either whilst the first suit is depending, or after a decree is passed.

Penalty for the institution of frivolous, vexatious, or groundless suit.

IX. If a suit shall have been instituted in the court of *adawlut* of any *zillah*, in which it may have been cognizable, no other *zillah* court shall entertain a suit for the same cause of action. On proof being made in the court in which the second suit may be commenced, that a prior suit, for the same cause of action, has been instituted in another *zillah* court competent to try it, the court in which the second suit may be brought, shall dismiss it, with costs, to be paid by the party suing. And if any person shall have commenced a suit in the *adawlut* of any *zillah* court, and while that suit is depending, or after a decree may be passed in it, shall commence another suit in any other *zillah* court of *adawlut* for the same cause; or if any person shall commence a suit in any *zillah* court of *adawlut* which shall appear to the judge to be frivolous, vexatious, or groundless; he shall not only dismiss the suit with such costs as he may deem it equitable to award against the plaintiff, but shall fine him in such amount as he may think proper, upon a consideration of the nature of the case, and of the situation and circumstances in life of the offender; and commit him to close custody until he shall have paid the fine.

Judges not to entertain suits which may have been decided by any former judge or officer having competent jurisdiction.

Doubts respecting the competency of the former jurisdiction, to be submitted to the Sudder Dewanny Adawlut.

X. The *zillah* courts are prohibited from entertaining any cause which from the production of a former decree, or the records of the court, or other instruments, shall appear to have been heard and determined by any former judge, superintendent of a court, collector, or other public officer, having competent jurisdiction or authority. If any doubt should arise respecting the competency of the former jurisdiction or authority, the judges are to report the circumstances to the Sudder Dewanny Adawlut, and wait the instructions of that court.

Courts prohibited taking cognizance of any matters of a criminal nature.

Exceptions to the rule.

XI. The *zillah* courts are prohibited from interfering in any respect in any cause or matter of a criminal nature, declared cognizable by the magistrates of the several *zillahs*, or the courts of circuit, or the Nizamut Adawlut; excepting for contempt and perjuries committed in open court, as prescribed in Sections 8. and 22, Regulation III. 1803.

Of what suits the *zillah* courts are prohibited taking cognizance, as coming within the jurisdiction of the Supreme Court of Judicature.

XII. The *zillah* courts shall not receive or entertain any suit, under any pretence whatever, relating to any land, house, tenement, or hereditament, nor to any dispute regarding the boundaries of lands, houses, tenements, or hereditaments, situated within the town of Calcutta. Nor shall the *zillah* courts cause any process to be served on the person of any individual actually resident, or being within the limits of the town of Calcutta; nor shall the

said courts entertain any suit whatever against any such individual, unless such suit shall relate to real property, situated without the limits of Calcutta, or to the public revenue.

XIII. Each *zillah* court shall be superintended by one judge, who, previous to entering upon the execution of the duties of his office, shall take and subscribe the following oath before the Governor General in Council, or any person whom he may commission to administer it.

Each *zillah* court to be superintended by one judge.

"I, A. B. appointed judge of the court of *adawlut* of the *zillah* of ———, solemnly swear, that I will administer justice conformably to the regulations which have been, or may be passed by the Governor General in Council, to the best of my ability, knowledge, and judgment, without fear, favour, promise, or hope of reward; that I will not receive, directly or indirectly, any present or *nuzzer*, in money or effects of any kind, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court of which I am appointed judge; that I will not knowingly permit any person or persons under my authority, or in my immediate service, to receive, directly or indirectly, any present or *nuzzer*, in money or effects, from any party or person whomsoever, on account of any suit to be instituted, or which may be depending, or has been decided in the court; that I will render a true and faithful account of all sums of money which may be paid into the court or disbursed from it; that I will not be concerned, directly or indirectly, in the purchase of any goods or commodities in the British dominions, subject to the government of the presidency of Fort William, for the purpose or remitting money to Europe, nor in any commercial transaction; and that I will not derive, directly or indirectly, any emoluments or advantages from my station, excepting such as the orders of Government do, or may authorize me to receive. So HELP ME GOD."

Oath to be taken by the judges of the *zillah* courts.

XIV. The *zillah* courts shall be held in a large and convenient room in the city, or place at which they are respectively established, three days in every week, or oftener if the state of the business shall render it necessary. Whenever the judge of a *zillah* court, from indisposition, or other cause, shall be prevented from holding a court, three days in each week, as above required, he shall, at the expiration of the week, report the cause of the court not being so held to the Sudder Dewanny Adawlut. This report shall not be made when the court may be shut, pursuant to orders from the Sudder Dewanny Adawlut, under Section 21, Regulation V. 1803. No rule, order, proceeding, or decree, shall be made, but on court days, and in open court. The *zillah* courts shall use a circular seal, one inch and three quarters in diameter. The seals shall bear an inscription to the following effect, in the Persian character and language, and in the Hindoostanee language and Nagree character:—"The seal of the court of *adawlut* of the *zillah* of ———." The seal of each court is to remain in the custody of the judge.

Courts to be held in a large room three days in every week, or oftener if necessary.

Judges to inform the Sudder Dewanny Adawlut whenever they may be prevented holding a court as often as is herein required.

No act to be done but on court days, and in open court.

Seals of the courts.

Seal to be held in the custody of the judge.

XV. If a native, or any other person, not being a British subject, shall consider himself to be aggrieved under any regulation, printed and published in the manner directed by Regulation I. 1803, by an act done by any of the officers of Government described in Section 7, pursuant to a special order, originating with the Governor General in Council, or the Board of Revenue, or Trade, the officer by whom the act may be done shall not be liable to be sued for it. In such cases, Government shall be considered to be the defendant; and the person deeming himself to be aggrieved, shall present a petition to the judge of the court of *adawlut* of the *zillah*, to which the officer by whom the act complained of may have been done, shall be amenable in his public capacity, stating wherein he considers himself to be injured under the regulations; and praying that the Governor General in Council will order the court of *adawlut* in which the cause may be cognizable, to try the points or matters contested, agreeably to the regulations. The judge to whom the petition may be presented, shall forward it immediately to the Governor General in Council, who, provided he shall not think it proper to afford the redress solicited by the petitioner, and provided the courts of justice shall be competent to try the cause, will direct the court in which it may be cognizable to proceed to the trial of it. If the Governor General in Council shall order the cause to be tried, the court shall immediately send a written notification of the order to the complainant; and the cause shall be considered to have been filed in the court, from the date of the notification. The court shall then proceed to try the suit, under the same rules and regulations as are prescribed for the trial of suits between individuals.

Individuals how to proceed who may consider themselves aggrieved under the regulations by any special order of Government, or the Boards of Revenue or Trade.

Government to be considered by the defendant.

Complainant to present a petition to the judge.

What the petition is to contain.

Judge to transmit the petition to the Governor General in Council.

How he is to proceed with the petition.

If he shall order the cause to be tried, the order to be notified to the party, and the cause to be considered as filed from the date of it.

Court how to try the cause.

The

Officer by whom the act may have been done, to carry on the suit on the part of Government.

Officer how to proceed in the event of Government being cast in any of the courts

The officer by whom the act complained against may have been done, shall carry on the suit under the directions of the Governor General in Council, or the Board of Revenue, or Trade, according to the authority under which he may have immediately acted; and shall issue the necessary instructions to the *vakeel* of Government, in the court in which the suits may be instituted, or subsequently carried in appeal. In the event of Government being cast in any of the courts, the officer entrusted with the management of the suit shall send a copy of the decree, and of the proceedings of the court, to the Governor General in Council, or to the Board of Revenue, or Trade, according to the authority under which he may have immediately acted, with a letter, stating any objection which he may have to offer to the decision. The Boards above mentioned shall submit all such decrees and proceedings to the Governor General in Council, with their opinion respecting them. The Governor General in Council will order an appeal from the decisions which may be transmitted to him under this section, to be preferred or not, as may appear to him advisable. The costs and damages awarded against Government in suits instituted under this section, shall be defrayed from the public treasury.

Decree to contain the grounds on which it is passed.

XVI. The judges of the *zillah* courts shall state, in every decree, the grounds on which they may pass it.

Judges to act according to justice, equity, and good conscience in cases for which no specific rules exist.

XVII. In cases coming within the jurisdiction of the *zillah* courts, for which no specific rule shall exist, the judges shall act according to justice, equity, and good conscience.

Suits not cognizable where the cause of action has arisen twelve years prior to the institution of the suit.

This rule to remain in force for twelve years subsequent to the cession.

XVIII. *First.* The courts of *adawlut* are prohibited from hearing, trying, or determining the merits of any civil suit whatever, if the cause of action shall have arisen at a period, being twelve years, antecedent to the date on which the petition for the institution of such suit shall be presented to the court. This rule is to remain in force until the period of twelve years shall have elapsed, from the date of the cession of the provinces, ceded by the Nawaub Vizier to the Honorable the English East India Company, viz. the 10th day of November, 1801.

Private suits only cognizable, and such as were triable in the Vizier's government.

Limitation as to acts of the Vizier's government, or official acts of his officers.

Second. It is to be understood, that the powers vested in the *zillah* courts by the foregoing clause, to receive and try suits in which the cause of action shall have originated prior to the 10th day of November 1801, are to be restricted to the trial of suits of a private nature between individuals, of which cognizance would have been taken by the courts, officers, or authorities established for the administration of justice, under the Government of the Nawaub Vizier, and that such powers are not to be considered to extend to authorizing the *zillah* courts to take cognizance of any civil suits, originating in acts of the Vizier's government, or of his officers, or in engagements contracted by individuals with the officers of the Vizier's government, in their official capacities; and of which, according to the usages of their government, cognizance would not have been allowed to be taken by the persons intrusted with the exercise of judicial authority. If any *zillah* court shall entertain doubts, whether any suit preferred to it is cognizable by it under the restrictions contained in this clause; such court shall state the circumstances of the case to the provincial court of appeal; which court shall forward the same, with its opinion thereon, to the Sudder Dewanny Adawlut; and the Sudder Dewanny Adawlut shall submit the case to the Governor General in Council, and shall abide by such order as he may pass with regard to the admission or rejection of the suit.

Where the right to take cognizance may appear doubtful, reference to be made, by the *zillah* judges, through the medium of the provincial court and Sudder Dewanny Adawlut, to the Governor General.

After the period of twelve years from the cession of those provinces, courts not to try the merits of any suits, where the cause of action shall have arisen twelve years before the institution of the suit.

Exceptions to the rule.

Third. After the period of twelve years shall have elapsed, from the date of the cession of the provinces, ceded by the Nawaub Vizier to the Honorable the English East India Company, the courts of *adawlut* are prohibited from hearing, trying, or determining the merits of any civil suit whatever, if the cause of action shall have arisen at a period, being twelve years, antecedent to the date on which the petition for the institution of such suit shall be presented to the court; unless the complainant can shew by clear and positive proof, that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money; or that he directly referred his claim, within that period, to the matter in dispute, to a court of competent jurisdiction, or person having authority, whether local or otherwise, for the time being, to hear such complaint, and to try the demand; and shall assign satisfactory reasons to the court, why he did not proceed in the suit; or shall prove, that either from minority or other good and sufficient cause, he was precluded from obtaining redress: provided, however, that it shall not be competent to the

zillah courts, under the powers vested in them by this clause, to hear, try, or determine the merits of any civil suit whatever, if the cause of action shall have arisen previous to the 10th day of November 1801, the date of the cession of the provinces, ceded by the Nawaub Vizier to the Honorable the English East India Company.

Decrees for real property to specify the shares of all the claimants.

XIX. The *zillah* courts shall not pass a decree in any suit, concerning the succession or right of inheritance to a *zemindaree*, *talook*, land, house, or other real property, to which there shall be more claimants than one, who by the Hindoo or the Mahomedan law, (respect being had to the religion of the claimants,) would be entitled to a portion of the property, excepting the property be by the decree, adjudged to all the claimants in the proportions to which they may be respectively entitled.

Zillah courts prohibited corresponding with parties in suits, or any person respecting matters cognizable in the courts.

XX. The judges of the *zillah* courts are prohibited from corresponding by letter with parties in suits, process, or matters depending before them, or coming within their cognizance. If a party in a suit, or a person amenable to the jurisdiction of the court, shall have any matter to represent to the court, he shall either appear in the court in person and represent the matter in writing, or make the representation in writing through an authorized *vakeel*. The court shall pass whatever order upon the representation may appear to it proper, consistently with the regulations; and shall direct a copy of the order to be delivered to the person making the representation, or to his *vakeel*, under the seal of the court, and attested by the register. The judges of the *zillah* courts are also prohibited from corresponding by letter with the provincial courts of appeal, respecting any cause or matter before those courts, or respecting any matters whatever, regarding which they may not be specially empowered so to correspond. When a judge shall have occasion to communicate to the provincial court any information which may be required from him by the court, or which he may deem it necessary to submit to the court, respecting any matter or cause which may be before it, he shall certify it to the court by a writing, under his official seal and signature.

Judges of the *zillah* courts prohibited corresponding with the provincial courts.

In what cases an appeal shall lie from the decrease of the zillah courts.

XXI. If any person shall deem himself to be aggrieved by the decree of any zillah court, which may be passed for land, or other real property, being lakheraj (a [illegible] from the payment of revenue to Government), the annual produce of which shall [illegible] sicca rupees; or for any* zemindaree, *independent* talook, *or* [illegible] malguzaree *(paying revenue to Government), where the produce shall exceed two hundred sicca rupees per annum; or for any dependant* talook, *the annual produce of which shall be more than two hundred sicca rupees; and in all other cases where the decree shall be for a sum of money, or personal property, or real property not of the descriptions before mentioned, the amount or value of which shall exceed two hundred sicca rupees, such person shall be at liberty to appeal from the decision to the provincial court of appeal, under the rules established for appeals in Regulation [illegible] 1803.*

Petitions for a review of [illegible] from the decision in which no appeal can be had, [illegible] presented to the court passing such decision.

XXII†. Persons considering themselves to be aggrieved by the decree of a zillah court, from which decree no appeal can be had under Section [illegible] to any superior court, and who from the discovery of new matter or evidence which [illegible] ledge, or could not be adduced by them at the time when the decree was passed, or for other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them; shall be at liberty to present a petition for that purpose to the court in which the decree in question may have been passed; and if the judge of such court, shall on consideration of the reasons urged by the party, be of opinion that the review desired is necessary to correct an evident error in the judgment, or otherwise for the due administration of justice, he shall report the same, with the grounds of such opinion, to the court of Sudder Dewanny Adawlut; transmitting at the same time a copy and translation of the petition presented to him; and shall be guided by the instructions which he may receive from that court, in admitting or rejecting the prayer of such petition; as well as in the admission of evidence, if the review be granted, on the further proceedings to be held by him in consequence. Provided, however, that no such reference to the Sudder Dewanny Adawlut, shall be considered to be obligatory in cases wherein the judge of the court in which the final decree may have been passed, shall deem the reasons urged for

Report to be made to the Sudder Dewanny Adawlut where the judge may deem a review necessary.

Instructions of the Sudder Dewanny Adawlut to determine the admission or rejection of the review desired, as well as what new evidence shall be admitted.

But no reference to the Sudder Dewanny Adawlut obligatory, where the zillah judge shall deem such unnecessary.

* This section is rescinded by clause fourth, Section 6, Regulation VIII. 1805.
† This section is rescinded by clause first, Section 4, Regulation XXVI. 1814.

a revision thereof insufficient; his rejection of the petition for a review in all such cases, being hereby declared to be conclusive.

Zillah judges to apply to the Governor General in Council for permission to quit their stations, and to wait the receipt thereof. Exception.

XXIII. *First.* Any *zillah* judge and magistrate who shall be desirous of quitting his station, on whatever account, shall apply for permission to the Governor General in Council, and, except in cases of emergent indisposition, shall not leave his station until such permission shall have been obtained. The letter of application is to specify the purpose for which the leave of absence shall be required; the period for which it is desired; and the name of the register, or senior assistant on the spot, to whom the charge of the offices of judge and magistrate will devolve, if not otherwise provided for.

Reference to be made to the court of Sudder Dewanny Adawlut and Nizamut Adawlut.

Second. The Governor General in Council, on receipt of the abovementioned applications, will cause reference to be made to the Sudder Dewanny Adawlut and Nizamut Adawlut, to ascertain the state of the public business depending before such judge or magistrate, and whether the leave of absence desired can be conveniently granted, or otherwise.

The Governor General in Council will determine in every instance, whether to delegate the duties of judge and magistrate, to the register and senior assistant, or to appoint any other person thereto.

The Governor General in Council will determine, in every instance wherein he may grant leave of absence to the judge and magistrate to quit his station, whether to delegate the temporary execution of the duties of judge and magistrate, to the register or senior assistant on the spot; or to appoint any other person by a special commission thereto; or to make other provision for carrying on such part of the business of the station, civil and criminal, as cannot be postponed; according to the urgency and circumstances of the case.

To whom his determination will be communicated.

The result of the determination will be immediately communicated to the judge and magistrate, and the register and assistant, any other person appointed to act for him; and notice of it is to be given at the same time to the courts of Sudder Dewanny Adawlut, and Nizamut Adawlut, and the provincial courts of appeal and circuit, within whose jurisdiction the *zillah* court of the judge and magistrate, to whom leave of absence may be granted, shall be situated.

To whom *zillah* judges and magistrates are to report their departure from, and return to, their station.

Third. The *zillah* judges and magistrates to whom leave of absence shall be granted, shall report their actual departure from their stations, as well as their return thereto, to the Governor General in Council, the courts of Sudder Dewanny Adawlut, and Nizamut Adawlut, and the courts of appeal and circuit, within whose jurisdiction their respective courts shall be situated.

A. D. 1803. REGULATION III.

A REGULATION *for receiving, trying, and deciding Suits or Complaints, declared cognizable in the Courts of Adawlut established in the several Zillahs, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.* —PASSED *by the Governor General in Council, on the* 24*th of March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

THE following rules are enacted for receiving, trying, and deciding suits or complaints, declared cognizable in the courts of *adawlut* established in the several *zillahs* in the provinces ceded by the Nawaub Vizier, to the Honorable the English East India Company.

Only parties or their *vakeels* to be allowed to prefer or defend a suit.

II. No complaint shall be received but from the plaintiff; nor any answer to a complaint but from the defendant; or their respective *vakeels* duly empowered. Nor shall any person be permitted to do any act, or to be heard *viva voce* in any stage of a cause, excepting the plaintiff or defendant, or their *vakeels* or witnesses.

What a complaint is to contain.

III. Every complaint which may be presented to the court of *adawlut* or any *zillah* shall state precisely the matter of complaint. If the complaint shall be concerning [illegible] *daree*, or an independent, or a dependant *talook*, or any [illegible] (exempt from the payment of revenue to Government) [illegible] ment of revenue to Government), it shall state the [illegible] land, according to the most accurate estimate which the [illegible] obviate all doubt respecting what is meant by the [illegible] *zaree* lands, it is declared to be the aggregate of the [illegible] the regulations by the dependant *talookdars*, under-farmers, and [illegible] year in which the claim may be preferred; and which [illegible] claimant to be put into possession of the lands during that [illegible] for a house, garden, tank, or any real property, not being [illegible] or any valuable thing, or relating to marriage or cast, or for damages for [illegible] state, according to the nearest estimate, the exact sum of money [illegible] plaintiff may be endamaged. The complaint shall also specify the [illegible] complained against, and the time when the cause of action arose; and shall be signed by the complainant, or his *vakeel* duly authorized. The complaint shall be signed, and numbered, and dated in the order in which it may be received, by the judge of the court; and shall be registered in a book by a native officer of the court, whose particular duty it shall be to copy and register complaints. Every complaint, answer, reply, and rejoinder, shall be written in the Persian language and character; or in the Hindoostanee language and Nagree character; and the parties shall be permitted to deliver their pleadings in whichever of those languages and characters they may think proper.

What is meant by the [illegible] produce.

If for land, the annual produce is to be specified.

If for other property, the amount or value which [illegible] endamaged.

Complaint to specify the name of the defendant, and when it arose, and to be signed.

Judge to sign, number, and date the complaint.

Complaint to be entered in a book.

In what language the complaint, answer, reply, and rejoinder is to be written.

IV. That no doubt may be entertained what suits decided in the provincial court of appeal, are appealable to the Sudder Dewanny Adawlut, it is directed, that if a suit shall be instituted

Defendant to insert in his answer, his objections to the plaintiff's statement of the cause of action.

instituted in any *zillah* court, and the cause of action shall be stated by the plaintiff to be such as would make it appealable to the Sudder Dewanny Adawlut, or such as would not entitle either party to an appeal to that court, in the event of the suit being appealed to the provincial court of appeal, and either party being dissatisfied with the decision of that court; the defendant, in the first case, if he shall be of opinion that the cause is not appealable; and in the second, if he shall think it appealable; shall insert his objections to the plaintiff's statement in his answer; and the judge shall make such inquiries as he may deem necessary to ascertain whether the cause of action is such as would, or would not, render it appealable to the Sudder Dewanny Adawlut; and to insert his decision on the objections of the defendant in the record of the trial; which the court of appeal, in the event of the cause being brought before them, shall confirm or set aside, as may appear to them proper. If the defendant shall not offer any objections, in either of the cases above mentioned, to the plaintiff's statement of the cause of action, it shall be held to be correct; so far as to determine eventually whether it is, or is not, appealable to the Sudder Dewanny Adawlut; and any objections which either party may afterwards offer to the statement shall not be attended to; but if agreeably to the statement, the cause of action shall be appealable, an appeal shall be allowed, (all rules regarding appeals being duly observed;) and if it be not appealable, an appeal shall not be admitted.

Otherwise the statement is to be held correct, so far as to determine eventually, whether the cause is appealable to the Sudder Dewanny Adawlut.

Court how to proceed upon a complaint cognizable by it being preferred to it.

To issue a summons.

Contents of the summons.

V. Upon any person, either by himself or his *vakeel* duly appointed, preferring a written complaint on account of any matter declared cognizable by the *zillah* courts of *adawlut* to the proper *zillah* court, the court shall issue a summons upon the defendant. The summons shall contain a short account of the nature of the demand; and shall require the defendant, either to accompany the officer who may be deputed to serve the summons, to appear in person before the court; or to deliver to him good and sufficient security to appear and answer to the complaint, on the day appointed, either in person or by *vakeel*. The person who may become security for the appearance of the defendant, shall further bind himself, to be responsible for the personal attendance of the defendant, whenever it may be required by the court, and in the event of such person not being able to produce the defendant, [illegible] be depending, or at any time before the final decree in the cause shall have been executed, to be answerable for such sum as may be adjudged against the defendant. The summons shall be served on the defendant by the *nazir*, or his inferior officer, if the defendant can be found; and in the event of his not giving the required security, [illegible] person into custody, and bring him before the court. The

Nazir to return the summons, with an endorsement.

On the defendant appearing, court to fix a day for answering;

and to take security for attendance.

[illegible] the summons on the day appointed, with an endorsement, specifying in [illegible] If the defendant shall appear either in person or by *vakeel*, according to its discretion, for him to answer to the complaint; [illegible] to do, may at any time allow the defendant a further [illegible] And if the defendant shall appear in person, and shall not [illegible] mentioned for his appearance and attendance, the court shall [illegible] and in the event of his refusing, or omitting to comply [illegible] committed to close custody until he shall have given the [illegible] of the court. When the defendant shall have delivered [illegible] the plaintiff shall reply to it on the next court day. The [illegible] any matter not contained in his complaint. He shall [illegible] the defendant to be true; or simply and shortly deny the [illegible] such of the facts in the answer as he intends to dispute; or simply deny the truth of all the facts contained in it, or the competency of the answer. The defendant shall rejoin to the reply on the same day. He shall not introduce in his rejoinder any matter not contained in his answer. He shall simply deny the truth of the reply of the plaintiff; or the parts of it which he means to dispute; and aver the truth or competency of his own answer; and no further pleadings whatever shall be admitted in the cause. But if, from mistake, inadvertence, or other cause, the plaintiff shall have omitted to insert in his complaint any thing material to the suit; the court, on the omission being represented either by the plaintiff or his *vakeel*, shall allow the plaintiff to prefer a supplemental complaint in which he shall state the matter omitted. The defendant shall be allowed to deliver an answer to the supplemental complaint, on a day to be fixed for that purpose. And the plaintiff and defendant shall reply and rejoin in the same manner, as on the original complaint, but no other. In like

Defendant to be committed on his not giving the security.

Plaintiff to reply.

What the reply is to contain.

Defendant to rejoin.

What the rejoinder is to contain.

Plaintiff is to be allowed a supplemental complaint.

Defendant to be allowed an answer to the supplemental complaint.

manner, if the defendant from mistake, inadvertence, or other cause, shall have omitted to insert in his answer any thing material to his defence; the court, upon his representing the omission, either in person or by his *vakeel*, shall permit the defendant to deliver in a supplemental answer. The plaintiff and defendant shall reply and rejoin, in the same manner, as on the original answer. But no more than one supplemental complaint, or one supplemental answer, shall be received by the court. Whenever a defendant shall refuse or neglect to rejoin, at the time appointed for that purpose, the register shall enter a rejoinder for him; and the court shall proceed in the trial, in the same manner as if the defendant himself had rejoined.

Plaintiff and defendant permitted to reply and rejoin.

Cases in which the defendant is to be allowed a supplemental answer.

Plaintiff and defendant to reply and rejoin.

Only one supplemental complaint or answer to be admitted.

Register to rejoin, if the defendant does not rejoin by the appointed day.

VI. After the rejoinder shall have been filed, the court, either immediately, or on a fixed day (eight days notice of which shall be given to the parties) as soon after the pleadings are closed as the business of the court will permit, shall examine the truth of the complaint or claim, by the oaths of the parties, if they mutually consent to that mode of examination; and of the witnesses who may be produced by them, if they have any witnesses to produce.

When the courts are to proceed to the examination of the merits of the suit.

VII. For the purpose of obtaining the attendance of witnesses, the *zillah* courts, on the requisition of the plaintiff or defendant, or their respective *vakeels*, shall issue a summons to the witnesses whom the parties may name, (provided they may not be Hindoo or Mahomedan women of a rank or quality which, according to the manners and customs of the country, would render it improper to compel them to appear in a court of justice,) specifying at whose request the summons may have been issued: and requiring them to appear in the court on a day to be named in the summons, and there to depose concerning the matter in dispute between the parties. If a witness so summoned shall not attend on the day appointed, or attending, shall refuse to give evidence or to subscribe his deposition as hereafter required; the judge, in the first case, if it shall be proved to his satisfaction on oath that the witness was material to the cause, shall issue an order to the *nazir* to arrest and bring the witness before the court; and shall impose on such witness, not [illegible] refusing to give evidence, a fine not exceeding five hundred sicca rupees, and shall confine him to close custody, until he shall consent to give his evidence, and sign his deposition. If a witness who may attend pursuant to a summons, shall have incurred any expence in consequence of his being required to appear, the court shall award to him such sum for his charges, as may appear to it reasonable, whether he be examined or not. If the sum so awarded shall not be paid immediately, or secured to the witness to the satisfaction of the court, the party at whose requisition the witness may have been summoned, shall not only lose the benefit of his testimony, but the court, after the decree in the cause shall be passed, shall confine such party, until he shall have discharged the sum awarded to the witness. The *zillah* courts shall administer to parties consenting to be examined or to witnesses, such oaths as may be considered most binding on their consciences, according to their respective religious persuasions. But if a witness shall be of a rank or cast, which according to the prejudices of the country, would render it improper to compel him to take an oath, the judge of the court may dispense with his being sworn; provided he shall subscribe one of the undermentioned declarations, according as he may be of the Mahomedan or Hindoo persuasion; or such other declaration as the judge, from local circumstances, may deem necessary.

How the attendance of witnesses is to be procured, provided they be not women of the rank or cast herein mentioned.

What the summons is to contain.

Contumacious witnesses how to be dealt with.

Witnesses to be allowed their reasonable expenses.

What oaths to be administered to parties or witnesses.

Cases in which the courts may dispense with the oaths of witnesses.

Declaration to be subscribed by a Hindoo witness exempted from taking an oath.

"I will true and perfect answer make to all such questions as shall be put to me touching the matter now before the court, betwixt the parties A. and B. which shall be the truth, the whole truth, and nothing but the truth: if I declare any thing not warranted by the truth, or conceal any part thereof, I shall be deserving of punishment from Almighty God; and if I break this declaration, I acknowledge myself to be as guilty as if I had killed a Bramin, or slain a cow on the banks of the Ganges, at Causee."

Declaration to be signed by a Hindoo witness exempted from taking an oath.

Declaration to be signed by a Mahomedan witness exempted from taking an oath.

Declaration to be signed by a Mahomedan witness exempted from taking an oath.

"I solemnly affirm and declare, in the presence of Almighty God, that I will true and perfect answer make to all such questions as shall be put to me, touching the matter now before the court, betwixt the parties A. and B. which shall be the truth, the whole truth, and nothing but the truth."

After the witness has given his deposition, he is to subscribe the following declaration.

"I solemnly declare in the presence of Almighty God, that I have told the truth, the whole truth, and nothing but the truth, touching the matter now before the court, betwixt the parties A. and B."

The above declarations to be received as good evidence.

The depositions of the witnesses who may subscribe the above declarations, shall be received as good evidence in the cause; in the same manner as if they had been sworn in the usual manner.

Depositions to be reduced into writing, in the Persian language and character, or in that of the district; or language in which the parole evidence was given.

The deposition of every witness who may appear in court, shall be taken *vivâ voce* in open court, in the language in which he is most conversant; and shall be reduced into writing in the Persian language, or in the Hindoostance language and Nagree character: in cases in which the witness shall desire it, his deposition shall be reduced into writing, in the language in which his parole evidence shall have been given. The deposition shall be subscribed by the witness, with his name or mark.

Exhibits and written evidence to be produced in open court.

Such exhibits how to be proved.

Exhibits how to be marked and referred to.

Every exhibit or written evidence (excepting exhibits which may be proved by such absent witnesses as are hereafter mentioned) shall be produced in open court at the trial; and if disputed, shall be duly proved by the examination of witnesses sworn as above directed; whose depositions shall in the same manner be reduced into writing and signed. Every exhibit shall be marked with some letter or number, to identify it; and the letter or number shall be referred to, in the deposition proving it. All exhibits proved by witnesses, not present in court, shall in the same manner be marked and referred to in the depositions proving them; and shall be endorsed and minuted as having been read, at the time they may have been so read, in the court.

Court may dispense with the personal appearance of Hindoo or Mahomedan women of a certain rank.

How the evidence of such women is to be obtained.

In the event of any witness being a Hindoo, or a Mahomedan woman of a rank or quality, which according to the customs and manners of the country, would render it improper to compel her to appear in a court of justice, the *zillah* courts of *adawlut* are authorized to commission three creditable women, who shall be sworn to execute the commission truly and faithfully, to administer either an oath, or the prescribed declaration to persons of the rank, cast, or quality before mentioned, according to the discretion of the judge, and the religion of the witnesses,) and to examine the witnesses on written interrogatories, to be delivered to them by both parties, or their *vakeels*, if both parties shall desire to examine the witnesses.

The evidence of witnesses residing out of the jurisdiction of the court, and at a greater distance than fifty *coss*, how obtained.

In like manner, if any witness whose deposition may be necessary to the determination of a cause, shall reside without the jurisdiction of the *zillah* court in which the suit may be instituted, and at a greater distance than fifty *coss*, the judge of the *zillah* court is authorized by [illegible] court, to request the judge of the *zillah* court in whose jurisdiction the witness may reside, either to administer to him an oath, or cause him to make the above mentioned declaration, should he be of the description of persons which the courts are empowered to exempt from taking an oath, (according to the discretion of the judge who shall grant the commission, and the religion of the witness,) and to examine such witness on written interrogatories; to be transmitted to the judge by both parties, or their *vakeels*, if both parties shall desire to examine the witness. The judge to whom the letter may be directed, shall examine the witness or witnesses named in the letter, according to the requisition of it; and shall return the deposition of each witness, duly subscribed by him, to the judge of the court in which the cause may be depending, by the time required in the commission; and every deposition so taken shall be read as good evidence in the cause.

Personal attendance of parties or witnesses, residing out of the jurisdiction of the court, and at a greater distance than fifty *coss*, how to be procured, if necessary.

But if the personal attendance of a party in a suit, or a witness (provided the party, or witness, be not a woman of a rank or quality which, according to the customs and manners of the country, would render it improper to compel her to appear before a court of justice) who may be resident at any distance whatever beyond the limits of the jurisdiction of the court, shall be deemed by the judge trying the cause to be indispensably necessary; he shall address the judge of the court, in the jurisdiction of which the person whose attendance is required may reside, requesting him to order him to attend; and the judge so addressed shall comply with the requisition, without further delay than may be necessary in the event of the attendance of such person before the court of the judge to whom the application may be made being indispensable, in consequence of his being either a party or a witness in a suit depending before that court.

Judge how to proceed, in the event of his rejecting exhibits or written evidence that may be offered.

If any exhibit, or written evidence shall be offered to a *zillah* court, in a cause depending before it, and the judge of the court shall think it just and proper to reject it, he shall endorse upon it the word "*rejected*," together with the names of parties in the cause; and the name of the party who produced

the document; the date on which it may be rejected; and his reasons for not admitting it, (which shall be written either upon the document rejected, or on a paper to be annexed to it,) and shall subscribe his name to the endorsement, and return the document with his reasons so written to the person who produced it

Witnesses guilty of perjury to be committed.

VIII. If a witness, or any person, shall be guilty of wilful and corrupt perjury in any cause or matter depending in court, the judge shall immediately commit the offender to close custody; to take his trial before the court of circuit, of the division in which the offence may be committed.

When the court is to give judgment.

IX. When the parties have been heard, and the witnesses on both sides examined, and the exhibits received and considered, the judge shall give judgment according to justice and right; and shall order costs to be paid to the party in whose favour the decree shall be made. The court shall then, in cases not appealable, cause the decree to be executed: if it be for a *emindaree*, independent or dependant *talook*, or other estate or real property, by causing possession of the property to be delivered to the person to whom it may be decreed; if it be for personal property, or a sum of money, by causing the specific thing to be delivered, or the value of it; or the sum of money decreed, to be levied by the public sale by auction of a sufficient portion; or, if requisite for the satisfaction of the decree, the whole of the lands, houses, and all effects, either real or personal, belonging to the party against whom the judgment may have been given; or by the attachment of his person; or, where it may be necessary, both by the sale of his property and effects, and the attachment of his person.

Decree of the court how to be executed in cases not appealable.

Monthly allowances to be paid to defendants confined at the instance of plaintiffs.

X. If the defendant in a suit in a *zillah* court shall be committed to close custody, at the instance of the plaintiff, either while the suit is depending, or after the decree shall have been passed, the judge, at the time of the commitment of the defendant, shall make an order on the plaintiff, for the payment of whatever monthly allowance he may think reasonable for the subsistence of the defendant; upon a consideration of his rank and situation in life, and the circumstances of the plaintiff. The allowance shall not exceed four annas, nor be less than one anna per day; and shall be made payable to the *nazir*, who shall give monthly receipts for it to the plaintiff, dated on the day on which the money may be paid. The first payment shall be made immediately upon the confinement of the defendant; and every subsequent payment at the expiration of the next and following month, calculating from the day on which the defendant shall be confined. If the plaintiff shall neglect, or refuse, to pay the prescribed allowance for the space of one month, after any payment may become due, the *nazir* shall report the omission or refusal in writing, under his signature to the judge. Upon receipt of the report, the judge shall cause it to be notified to the plaintiff by a writing in the Persian language and character, and in the Hindoostanee language and Nagree character, to be fixed up in some conspicuous place in the court-room; that if he shall not within one month, after the date of the notice, pay the sums in arrear, together with the allowance for one month in advance, the court will release the defendant. If the plaintiff shall not make the payments required by the notice, the court shall accordingly discharge the defendant from custody. Plaintiffs shall not be required to pay any allowance to defendants who may be committed to custody for disobedience to an order of the court.

To whom and when the allowance is payable.

Nazir to report to the judge, in the event of the plaintiff omitting or refusing to pay the allowance for one month

Judge how to proceed upon such report.

Plaintiffs not to pay any allowance to defendants confined for disobedience to the orders of the court.

Copies of decrees to be transmitted to the Revenue Board and collector.

XI. *First.* That the periodical register of landed property, paying revenue to Government, may be kept complete, the *zillah* courts are strictly enjoined to transmit to the collector of the *zillah*, and the Board of Revenue, a copy of every decree which they may pass, or which may be sent to them, to be enforced by the provincial court of appeal, or the Sudder Dewanny Adawlut, regarding any *zemindaree*, independent *talook*, or other land paying revenue immediately to Government, or in any wise concerning the possession of such land. The judge shall transmit the copy of the decree within ten days after he may pass or receive it. The decree shall be attested with the signature of the judge, and the seal of the court; and shall be accompanied with a short abstract of it, specifying the date of the decree, the names of the *pergunnah* or *pergunnahs*, the *talook* or *talooks*, the *turuf* or *turufs*, the village or villages, or the portions of each, which may be decreed, the name or names of the person or persons last in possession, the person or persons to whom the lands shall have been decreed, and if the land be decreed to two or more persons, the shares awarded to each person.

What the abstract is to contain.

Of what particular decrees, copies are to be so transmitted.

Second. The decrees regarding *malgusaree* land, to be transmitted, as above directed, to the collector of the *zillah*, and to the Board of Revenue, are such decrees only as affect the proprietary right in, or possession of the land.

Suits of plaintiffs who neglect to proceed in them for six weeks, to be dismissed, unless they can shew good cause for not having proceeded.

Judge to record his reasons for the exercise of the above powers.

XII. If a plaintiff shall at any time neglect to proceed in his suit for six weeks, the suit shall be dismissed, unless he can show good and sufficient cause to the court for not having proceeded in it; and the court shall award to the defendant the whole or such part of the costs as he may have incurred in the suit, according as it may deem equi able. The judge shall record upon the proceedings his reasons at large for dismissing the suit of a plaintiff, or allowing him to prosecute it, after he shall have neglected to proceed in it for six weeks.

Court how to proceed, in case the process of the court cannot be served upon a defendant.

XIII. If a defendant against whom a summons shall issue shall abscond, or shall not after diligent search be found, or shall shut himself up in his own, or in any house or building, or retire to any place so that the process cannot be served upon him, and the *nazir* shall return, that on such account he has not been able to serve or execute the process, the judge shall cause a writing in the Persian language and character, and in the Hindoostanee language and Nagree character, to be stuck up in some conspicuous part of the room in which the court may assemble. The writing shall contain a copy of the summons, and a notice, that if the party shall not appear on a day to be fixed (which shall not be less than fifteen days from the time that the summons may be fixed up), the court will proceed, without further notice, to try and determine the cause, without the appearance or answer of the defendant. The court shall likewise order a copy of the summons and notice to be fixed up, with all practicable despatch, on the outer door of the house in which the defendant may have usually dwelt, or in some conspicuous place in the village or other place in which he may have generally resided. The *nazir* shall return the order with an endorsement, stating at what times and places the summons and notice may have been fixed up. The return of the *nazir* shall be filed in court, and shall form a part of the record of the trial. If the defendant shall not appear at the time limited in the notice; or if a defendant who may have been served with a summons shall not appear, or if having appeared, he shall refuse to give answer, or make other default, or shall admit the truth of the plaintiff's bill of complaint, the court, on examining the allegations of the plaintiff only, and the depositions of his witnesses, shall decree and give judgment, in the same manner as if the defendant had appeared, answered, and entered into proof.

What the writing so fixed up is to contain.

Nazir to return how he has executed the process.

Nazir's return to be filed.

Cases in which the court is to give judgment on the allegations and evidence of the plaintiff only.

Sureties for defendants not appearing, or refusing to give answer, liable to be prosecuted as principals.

XIV. If a defendant, for whose appearance security may have been taken, shall not appear, or having appeared, shall refuse to give answer, the plaintiff is permitted to institute a suit against the sureties on their engagement, and shall be entitled to recover from them whatever he may prove to be due to him from the defendant; or he may proceed against the defendant, in the same manner as defendants are directed to be proceeded against who have been served with a summons, and have not appeared, or have refused to give answer.

Process of the courts to be served without application to any person, or the interference of any individual.

Exception in favour of defendants who may be women of the description herein specified.

XV. Every process, rule, order, or decree of the *zillah* courts (with the exception contained in this section) shall be immediately served or executed without application to any person, or the interference of any individual whomsoever; according to the requisition of it, within the limits of the special jurisdiction of each court. But in every case, in which the defendant shall be a Hindoo or Mahomedan woman, of a rank or quality which, according to the customs and usages of the country, would render it improper to compel her to appear in an open court of justice, the judges of the *zillah* courts shall not issue any compulsory process against her, to compel her to appear and make answer; but shall issue a summons, requiring her to appear in person, or by *vakeel*, at a certain time, to be named in the summons, in the *zillah* court; and answer to the complaint, and abide by the orders which the court shall think proper to pass in the cause. The summons shall be directed to the *nazir* of the court, and shall contain a short account of the nature of the demand or complaint; with a notice, that if the defendant shall not appear, as required by the summons, at the time specified in it, or having so appeared, shall not answer the complaint at the time which may be fixed by the court, or make any other default, the court will proceed to try and determine the cause, in the same manner as if the defendant had appeared, answered, and done what she is authorized or required to do, in defence of the suit. The summons shall further command the *nazir*, to deliver a copy of it to the *dewan*, or some principal servant of the defendant. The *nazir* shall not have recourse to compulsion, to enforce the summons; but

How such women are to be summoned when defendants.

Summons to be directed to the *nazir*.

What it is to contain.

The *nazir* to serve the

shall serve it in the manner herein directed, and no other. The *naair* shall return the summons, on the day appointed for the appearance of the defendant; with an endorsement, specifying in what manner he has executed it; and if he has not executed it, the reason why it has not been executed. If the defendant should appear in person, or by *vakeel*, the court shall fix a certain day, according to its discretion, for her to answer to the complaint: and appoint a day for the parties to deliver in their pleadings; and the court shall try and determine the cause, in the same manner as suits instituted against persons not being women of the abovementioned description. Upon the summons being issued, if the *dewan* or other principal servant of the defendant shall abscond, or otherwise act so that the summons cannot be served upon him, or shall not after diligent search and inquiry be found, the judge, upon the return of the summons, and proof being made before him, on oath, of the fact, shall proceed against the defendant, in the same manner as he is directed to proceed against a defendant, who after diligent search, cannot be found, or shall have absconded, or otherwise acted, so that he could not be served with a summons. If a female defendant, on whom no summons can be served, after the prescribed notice has been issued, shall not appear as required, or appearing, shall neglect or refuse to answer, or make other default, or admit the truth of the complaint, the court, on examining the allegations of the plaintiff only, and receiving the depositions of his witnesses, shall decree and give judgment in the same manner as if the defendant had appeared, answered, and entered into proof.

summons in the manner herein mentioned.

Naair to return how he has served the summons.

Court how to proceed, if the defendant should appear in conformity to the summons.

Court how to proceed, in case the principal servant of the defendant cannot be served with the summons, and the defendant shall not appear in person, or by *vakeel*.

XVI. *First.* In suits regarding succession, inheritance, marriage, and cast, and all religious usages and institutions, the Mahomedan laws, with respect to Mahomedans, and the Hindoo laws, with regard to Hindoos, shall be considered to be the general rules by which the judges are to form their decisions. The Mahomedan and Hindoo law officers of the courts shall attend to expound the law of their respective persuasions, in cases in which recourse may be required to be had to it. The judge of the *zillah* court may further refer cases, for the opinion of the law officers of the superior courts, through the medium of the judges of those courts: but no reference is to be made by the judges to any individual, not acting in a public and responsible capacity; yet this shall not prohibit parties in a suit submitting law opinions, quoting or referring to authorities in support of their claim.

By what law the suits herein described are to be decided.

Law officers to expound the law.

Cases may be referred for opinion to the law officers of the superior courts.

Second. In all cases of a Hindoo, Mussulman, or other person subject to the jurisdiction of the *zillah* courts, having at his death, left a will, and appointed an executor or executors to carry the same into effect, and in which the heir to the deceased may not be a disqualified landholder, subject to the superintendence of the court of wards; the executors so appointed shall take charge of the estate of the deceased, and proceed in the execution of their trust, according to the will of the deceased, and the laws and usages of the country, without any application to the judge of the court of *adawlut*, or any other officer of Government, for his sanction; and the courts of justice are prohibited from interfering in such cases; except on a regular complaint against the executors for a breach of trust, or otherwise, when they are to take cognizance of such complaint, in common with all others of a civil nature, under the general rule contained in Section 5, Regulation II. 1803; and proceed thereupon according to the regulations; taking the opinion of their law officers upon any legal exception to the executors; as well as upon the provision to be made for the administration of the estate, in the event of the appointed executor being set aside; and generally upon all points of law which may occur; with respect to which the judge shall be guided by the law of the parties, as expounded by his law officers; subject to any modifications enacted by the Governor General in Council in the form prescribed by Regulation I. 1803.

Executors to Hindoos, Mahomedans, and others, not being disqualified landholders, may take charge of the estate of the deceased; and proceed in execution of their trust, without any application to the judge or other officer of Government.

Courts of justice prohibited to interfere in such cases, except on a regular complaint.

To proceed on such complaint according to the regulations.

Third. In case of a Hindoo, Mussulman, or other person subject to the jurisdiction of the *zillah* courts, dying intestate; but leaving a son, or other heir who by the laws of the country may be entitled to succeed to the whole estate of the deceased; such heir, if of age, and competent to take the possession and management of the estate; or if under age, or incompetent, and not under the superintendence of the court of wards, his guardian, or nearest of kin, who by special appointment, or by the law and usage of the country, may be authorized to act for him, is not required to apply to the courts of justice for permission to take possession of the estate of the deceased; as far as the same can be done without violence; and the courts of justice are restricted from interference in such cases, except a regular complaint be preferred; when they are to proceed thereupon according to the general regulations.

Heirs of persons dying intestate, entitled to succeed to the whole estate, (and not subject to the court of wards,) or their guardians not required to apply to courts of justice for permission to take possession of the estate as far as can be done without violence.

And courts of justice restricted from interference without a regular complaint.

More heirs than one to the estate of an intestate, may appoint a common manager, and take possession, as in the case of a single heir.

But if the right of succession be disputed, the judge, on a regular suit, to take security from the party in possession.

or, in default of such security, may put the other claimants giving it, in possession.

Such possession not to affect the right of property.

Fourth. If there be more heirs than one to the estate of a person dying intestate, and they can agree amongst themselves in the appointment of a common manager, they are at liberty to take possession: and the courts of justice are restricted from interference, without a regular complaint, as in the case of a single heir: but if the right of succession to the estate be disputed between several claimants, one or more of whom may have taken possession, the judge, on a regular suit being preferred by the party out of possession, shall take good and sufficient security from the party or parties in possession, for his or their compliance with the judgment which may be passed in the suit; or, in default of such security being given, within a reasonable period, may give possession, until the suit shall be determined, to the other claimant, or claimants, who may be able to give such security; declaring, at the same time, that such possession is not in any degree to affect the right of property at issue between the parties; but to be considered merely as an administration to the estate, for the benefit of the heirs, who may, on investigation, be found entitled to succeed thereto.

In what cases the judge may appoint an administrator for the care and management of the estate of an intestate.

And when such administration is to cease.

Fifth. In the event of none of the claimants, to the estate of a person dying intestate, being able to give the security required by the preceding clause; and, in all cases wherein there may be no person authorized, and willing to take charge of the landed estate of a person deceased; the judge, within whose jurisdiction such estate may be situated, (or in which the deceased may have resided, or the principal part of the estate may lie, in the event of its being situated within two or more jurisdictions,) is authorized to appoint an administrator, for the due care and management of such estate; until, in the former case, the suit depending between the several claimants shall have been determined; or, in the latter case, until the legal heir to the estate, or other person entitled to receive charge thereof as executor, administrator, or otherwise, shall attend and claim the same; when if the judge be satisfied that the claim is well founded; or if the same be established after any inquiry that may appear necessary; the administrator appointed by the court shall deliver over the estate to him, with a full and just account of all receipts and disbursements during the period of his administration.

Security to be taken from administrators appointed under this section; and in what manner their allowance is to be fixed.

Sixth. In all instances of an administrator being appointed under this section, he shall, previous to entering upon the execution of the duty of his office, give good security for the faithful discharge of his trust, in a sum proportionate to the extent thereof; and the judge appointing him is authorized to fix for him, (subject to the approbation of the court of Sudder Dewanny Adawlut, to whom a report is to be made in such instances,) an adequate personal allowance to be paid out of the proceeds of the estate; and to be a per centage thereupon, after deducting the expenses of management.

Judges how to proceed in cases of persons dying intestate; leaving personal property to which there may be no claimant.

Seventh. The judge of the *zillah* courts, on receiving information that any person within their respective jurisdictions has died intestate, leaving personal property; and that there is no claimant to such property; are to adopt such measures as may be necessary for the temporary care of the property; and to issue an advertisement, in the Persian language and character, and in the Hindoostanee language and Nagree character, requiring the heir of the deceased, or any person entitled to receive charge of his effects, to attend for this purpose; such advertisement to be published on the spot where the property was found; at the *adawlut cutcherree* of the *zillah*; and, if ascertainable, at the dwelling place of the deceased; or, if the deceased shall have been an European, in the Calcutta Gazette: after which should any person attend, and satisfy the judge of his title to the property, or to receive charge thereof as executor, administrator, or otherwise, the same shall be delivered up to him, on repayment of any necessary expense incurred in the care of it. Should no claim be preferred within the twelve months next ensuing, an inventory of the property, and report of the circumstances of the case, is to be transmitted to the Governor General in Council for his orders.

Courts not to refer matters of fact to any person whomsoever with a view to passing a decree.

Exception to the rule.

The rule not to prevent references to the law officers on points of law.

References to the law officers to be made in writing.

What they are to contain.

XVII. The judges of the *zillah* courts are strictly enjoined not to order, or allow of, a report of any matters of fact relating to any cause depending before them, with a view to the passing of a decree, to be made to them by any officer of the court, or any other person, excepting in cases in which special authority for that purpose shall have been given to the courts by any regulation. This rule however, is not to be construed to prevent a judge from referring any question arising on the Mahomedan or Hindoo law, to the *cauzy* or *pundit* of the court; respect being had to the law in which each is conversant. When a reference of this nature shall be deemed to be necessary, a statement of the facts on which

the question of law may arise, shall be made out in writing; and signed by the judge of the court; and delivered to the *cauzy* or *pundit*, for his opinion upon it. A blank shall be left, for the answer of the law officer, on the same paper on which the question is stated, or, on a paper firmly annexed to it. The answer shall be attested with the signature of the law officer; and the dates, on which the questions may be stated to him, and the answer may be given, shall be specified.

Answer on what paper to be written, and what it is to contain.

XVIII. In cases of disputed property regarding lands, houses, or their limits or boundaries, in which the court may deem a local investigation proper, the court shall appoint an *ameen*, who shall be sworn to make a true and faithful report to the court of the several matters which he may be directed to investigate; and not to take or receive, directly or indirectly, from either party, any gratuity, reward, or consideration, besides the sum which may be allowed to him by the court. The *ameen* shall be ordered to make his report in writing, subscribed with his name, and to deliver it into court, on a certain day which is to be specified in his commission. The report shall be received by the court, as evidence in the cause, with regard to the matters which the *ameen* may be commissioned to investigate, and no other. The court may order such sum to be paid to the *ameen*, as may be thought reasonable for his trouble; and the amount shall be added to the costs, and paid by the person against whom the decree may be passed. But the court shall be careful that expenses are not unnecessarily incurred by the *ameen*, by delay or other means.

Court may depute an *ameen*, where local investigations may be necessary, in disputes regarding real property.

To what points the *ameen* is to be sworn.

Report to be made by the *ameen*, duly attested by him, on a certain day.

Court to order such sum to be paid to the *ameen* as it may judge adequate to his trouble. By whom the sum awarded is to be paid.

Precaution to be observed by the courts in awarding such sums.

XIX. The plaintiff shall pay the charges of summoning the defendant, and his own witnesses, and of all process attended with expense which may be issued in his behalf, previous to the decision of the suit.

Plaintiff to pay in the first instance the expense of process.

XX. The judges of the *zillah* courts shall order the causes depending in their respective courts to be brought on for trial according to the order in which they may be filed; excepting in cases in which it may be otherwise directed by any regulation, or in which the judge may think it proper for special reasons, which he is to state, at large, upon the record of the trial, to bring on the cause before its turn. The register shall enter in a book, the causes for the trial of which a day may be appointed by the judge; and on the day fixed, call on the causes for trial, in the order in which they shall have been entered. A paper containing a list of the causes, and the day appointed for the trial of them, shall be fixed up in some conspicuous part of the court-room, seven days previous to the day of trial.

Suits to be brought on for trial in the order in which they may be filed.

Exception to the rule.

A paper specifying the causes for the trial, of which a day has been fixed, is to be stuck up in some conspicuous part of the court-room, seven days previous to the trial.

XXI. All orders and process of the court which may be directed to be served or executed on any person, shall be written or printed in the Persian language and character, and in the Hindoostanee language and Nagree character, and shall be sealed with the seal of the court, and signed by the judge. When a summons, or any process, shall be issued against a defendant, or a witness in a cause, or any other person, who may not reside, or be present at the place at which the court may sit; and for the serving or executing of which, a *peon* or *peons* may be necessary, each *peon* shall be paid by the party in whose behalf the summons or process may issue, four annas per day, for his subsistence: excepting in districts where custom may have fixed the subsistence money of *peons* at a lower rate; in which case, the lower rate, and no more, shall be paid. The name of each *peon* deputed to serve the process, the amount of his subsistence money, and the number of days for which he is to receive it, shall be endorsed on the writing. No greater number of *peons* than two, shall be deputed to serve or execute any process of the courts; and one *peon* only shall be sent, excepting in cases in which the judge shall think two *peons* necessary.

In what language and character the process of the court is to be written.

XXII. If any person shall be guilty of contempt of court, in open court; or of undue arrogations of the authority of the court; or of illegal exertions of judicial authority in his own cause; the court shall immediately punish the offender, by fining him in a sum not exceeding two hundred sicca rupees, and keeping him in custody until the fine shall have been paid. The court shall regulate the amount of the fines which they may impose under this section, according to the situation and circumstances in life of the offenders.

Court to fine persons guilty of contempt, arrogations of judicial authority, or illegal exertions of it in their own causes.

XXIII. If a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, shall resist or cause to be resisted any process, rule, order, or decree of a *zillah* court; the court, on proof of the resistance being made by oath to its satisfaction, shall cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself

Zillah court how to proceed against *zemindars*, independent *talookdars*, or other actual proprietors of land, or dependant *talookdars*, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

Decree to be passed if the offender shall not appear, or shall appear and be proved guilty of the charge.

himself up in his own house, or in any house or building; or retire to any place, so that he cannot be served with the summons, the court shall proceed against him in the manner directed with regard to other persons absconding, or acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed time; or, if he shall appear, and after receiving his answer to the charge, and hearing the evidence which he may produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge; the court shall decree, that the offender shall, from the date of the decree, forfeit his *zemmdaree*, *talook*, or other estate, in which the resistance may have been made; or, if the resistance shall have been made out of the limits of the estate of the offender, the *zemindaree*, *talook*, or other landed property which he may possess within the jurisdiction of the court, the process of which may have been resisted. If the cause shall not be appealed to the provincial court of appeal, within the time limited for preferring appeals to that court by the regulations; the court shall immediately forward a copy of its decree, and proceedings respecting the charge, to the Governor General in Council. If the offender shall appeal to the provincial court of appeal, within the prescribed period; and the court should confirm the decisions of the *zillah* court; and the cause shall not be appealable to the Sudder Dewanny Adawlut; or, if it shall be appealable, and the offender shall not lodge an appeal, within the time limited for preferring appeals to that court, in the established regulations; the provincial court shall immediately forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If an appeal shall be received from the decision of the provincial court; and the Sudder Dewanny Adawlut should confirm the decree of that court; the court shall immediately transmit a copy of their decree, and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. No appeal shall lie in this case, to the Sudder Dewanny Adawlut, unless the annual produce of the lands of the offender which may be adjudged forfeited (calculating according to the amount paid and payable to the offender by the dependant *talookdars*, under-farmers, and *ryats*, on account of the year in which the decree may be passed) shall exceed one thousand sicca rupees. In the event of an appeal from the decree of the provincial court being presented to the Sudder Dewanny Adawlut, and the admission or rejection of the appeal, depending upon the produce of the lands for the year before mentioned, exceeding or falling short of one thousand sicca rupees; the court of Sudder Dewanny Adawlut shall order the provincial court, to obtain the necessary information regarding the produce; and after receiving their report, admit or reject the appeal, according as they may deem equitable. It shall be at the option of the Governor General in Council, after the receipt of a decree adjudging the estate of any person forfeited under this section, either to order it to be executed, or to commute the forfeiture for such fine, as upon a consideration of the situation and circumstances in life of the offender, he shall think adequate to the offence for which the decree may be passed. In the event of the Governor General in Council commuting the forfeiture for a fine, the court, which shall have transmitted the decree and proceedings to him, upon receiving notice of the fine which he may impose, shall levy the amount of it by the same process as is prescribed for enforcing decrees of the court. In cases wherein a decree for the forfeiture of an estate or farm shall be passed, and transmitted to the Governor General in Council: the decree in question shall not be deemed final, until confirmed by the Governor General in Council; and shall not be carried into execution, until notice of his confirmation be received. In the event of the Governor General in Council ordering the decree to be executed, the court shall issue a precept, under the seal of the court, and the signature of the register, requiring the collector of the revenue of the *zillah* to depute an *ameen*, with a proper establishment of officers, whose allowances are to be specified in the precept, to sequester the lands, and collect the rents and revenues. If the lands of the offender shall be deemed by the court too inconsiderable to admit of their being charged with the expense of an *ameen*, the judge shall direct a precept to be issued to the collector of the *zillah*, to order the nearest *tehsildar*, or any other officer who may be employed under him in the business of the collections, to take charge of the lands. The officer shall perform the duties prescribed to *ameens*, in such cases, and under the same restrictions and penalties.

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealed in time.

If the offender should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the offender not appealing to the Sudder Dewanny Adawlut, or the cause being not appealable.

Sudder Dewanny Adawlut how to proceed, if the suit should be appealed to them, and they should confirm the decision of the provincial court.

Rule for determining from what decrees of the provincial courts passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

If the lands are decreed forfeited, the Governor General in Council may confirm the decree, or commute the forfeiture for a fine, after he may receive the decree.

If the forfeiture is commuted for a fine, by what court, and how it is to be levied.

Decree for the forfeiture of estates or farms, not to be deemed final or carried into execution, till confirmed by the Governor General in Council, and notice of his confirmation be received.

If the decree is declared final, the court to issue a precept to the collector to sequester the lands.

If the forfeitures should stand confirmed, the Governor General in Council to confer the estate on the heirs of the offender, or to dispose of it by public sale.

XXIV. If the decree adjudging the lands of the offender forfeited, shall be confirmed under Section 23, it shall be at the option of the Governor General in Council, either to confer the rights which the offender possessed in the lands on his heirs, upon their agreeing to make good all sums whatever, which may be due from him to Government on account of the lands forfeited, and to pay the fixed public revenue assessed upon them; or, if the property forfeited be a dependant *talook*, the revenue payable from it to the proprietor within whose estate it may be situated; or to order the lands to be disposed of at public sale, under the rules prescribed for the sale of lands so forfeited.

Provincial courts how to proceed against persons holding farms of Government, who may resist their process.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

XXV. *First.* If a farmer of land, holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which shall at any time issue from any *zillah* court, on proof of the resistance being made by oath, to its satisfaction, the court shall cause the offender to be summoned to answer to the charge. If the offender shall abscond, or shut himself up in his own house, or in any house or building, or retire to any place, so that he cannot be served with the summons; the court shall proceed against him, in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period; or, if he shall appear within the limited time, and after receiving his answer to the charge, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge; the court shall decree the lease cancelled, from the expiration of the revenue year of the district in which the decree may be passed. If the offender shall not appeal to the provincial court of appeal within the time limited for preferring appeals to that court, the court shall immediately transmit to the Governor General in Council, a copy of the decree, and of all the proceedings respecting the charge. If the offender shall appeal to the provincial court of appeal within the prescribed period, and the court should confirm the decision of the *zillah* court; and the cause shall not be appealable to the Sudder Dewanny Adawlut, or, if it shall be appealable, and the offender shall not lodge an appeal, within the time limited for preferring appeals to that court; the provincial court shall immediately forward a copy of their decree and proceedings in the appeal, and of the decree and proceedings of the *zillah* court, to the Governor General in Council. If an appeal from the decision of the provincial court shall be admitted, and the Sudder Dewanny Adawlut should confirm the decree of the provincial court, they shall immediately transmit a copy of their decree and proceedings, and of the decrees and proceedings received from the provincial court of appeal, to the Governor General in Council. An appeal shall not lie to the Sudder Dewanny Adawlut, unless the revenue payable to Government by the offender, for the year in which the decree may be passed, on account of the lands, the lease for which may be adjudged annulled, shall exceed one thousand sicca rupees. It shall be at the option of the Governor General in Council, after the receipt of a decree adjudging the lease of a farmer annulled under this section, either to order the decree to be executed, or to commute the forfeiture of the lease, for such fine, as upon a consideration of the situation and circumstances in life of the offender, he shall think adequate to the offence for which the decree may be passed; or, if the offender shall not be desirous of being continued in his farm, to fine him, as above prescribed; and compel him to retain the farm during the remainder of the lease, and to hold him, and his surety, responsible for the discharge of their engagements until the term of them shall expire. If a fine shall be imposed upon the offender, the court which shall have transmitted the final decree and proceedings to the Governor General in Council, upon receiving notice of the fine, shall levy the amount of it, by the same process as is prescribed for enforcing decrees of the court. In cases wherein a decree for the forfeiture of the lease of the offender may be passed, and transmitted to the Governor General in Council, the decree in question shall not be deemed final until confirmed by the Governor General in Council, and shall not be carried into execution until notice of his confirmation be received. If the lease of the offender shall be annulled, and a balance shall be due from him to Government, at the close of the year in which the lease may be cancelled; both he, and his surety, shall be held responsible for the payment of it; and the collector of the revenue of the *zillah* is empowered to proceed against them for the recovery of it, agreeably to the rules in that respect established. The offender is permitted to prosecute in the court of *adawlut* of the *zillah* in which the farm shall be situated, the dependant

A copy of the decree to be sent to the Governor General in Council, if the cause shall not be appealed in time.

If the offender should appeal, and the decision of the *zillah* court be confirmed, the provincial court to transmit a copy of the decree and proceedings to the Governor General in Council, in the event of the offender not appealing to the Sudder Dewanny Adawlut, or the cause not being appealable.

Sudder Dewanny Adawlut how to proceed, if they should admit an appeal and confirm the decree of the court.

Rule for determining from what decrees passed under this section, an appeal is to lie to the Sudder Dewanny Adawlut.

Option reserved to the Governor General in Council to confirm the decree, or commute it for fine, and to compel the farmer to perform the conditions of his lease.

By what court, and how such fines are to be levied.

Decree not to be deemed final, or carried into execution, till confirmed by the Governor General in Council, and notice of his confirmation be received.

If the lease of the offender should be annulled, how balances due from him are to be recovered.

Farmers whose leases may be cancelled, how to recover balances.

dependant *talookdars*, under-farmers, and *ryots*, in the lands included in the farm, for any arrears of rent or revenue which may be due from them to him, on account of the period during which his lease remained in force.

In what cases a fine may be substituted for the judgment of forfeiture, as directed by this and Sections 23. and 24.

Second. In all cases of resistance to the process of any *zillah* court, if the judge of the court whose process may have been resisted, shall be of opinion that a fine to Government will be a more proper and adequate punishment for the offence than a forfeiture of the offender's estate or farm, under the provision contained in this section, and in Sections 23. and 24; he is authorized, instead of the decrees of forfeiture so directed, to adjudge the offender to pay such fine to Government as may appear proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted; as provided with regard to persons not being landholders or farmers of land, by Section 26; and subject to the provisions in that section, for an appeal from the judgment of the court.

Zillah courts how to proceed against persons resisting process, who are not proprietors of land, *talookdars*, or farmers.

XXVI. If any person, not being a *zemindar*, independent *talookdar*, or other actual proprietor of land, or a dependant *talookdar*, or a farmer of land holding a farm immediately of Government, shall resist, or cause to be resisted, any process, rule, order, or decree, which may at any time issue from the court of *adawlut* established in any *zillah*, on proof of the resistance being made by oath, to its satisfaction, the court shall cause the offender to be summoned to answer to the charge. If the person for whom the summons shall be issued shall abscond, or shut himself up in his own house, or in any house or building, or retire to any place, so that he cannot be served with the summons; the court shall proceed against him in the manner directed with regard to other persons absconding, or otherwise acting as above specified, so that they cannot be served with the process of the court. If the offender shall not appear within the prescribed period, or if he shall appear within the limited time, and after receiving his answer, and hearing the evidence which he may have to produce in his defence, it shall be proved to the satisfaction of the court, that he is guilty of the charge, the court shall adjudge the offender to pay such fine to Government as may appear to it proper, upon a consideration of his situation and circumstances in life, and the offence of which he may be convicted. If the offender shall not prefer an appeal to the provincial court of appeal, within the time prescribed for lodging appeals, the court shall proceed to levy the amount by the same process by which it is empowered to carry its decrees for sums of money into execution. If the offender shall appeal to the provincial court of appeal, within the prescribed time, and the court shall confirm the decision of the *zillah* court, the rules regarding appeals to the Sudder Dewanny Adawlut, from decisions of the provincial court of appeal for sums of money, shall be held applicable to decisions which may be passed by the provincial court under this section. If the provincial court shall confirm the decision of the *zillah* court, and the fine should not exceed one thousand sicca rupees, or if it should be above that sum, and the offender shall not prefer an appeal to the Sudder Dewanny Adawlut within the time prescribed for lodging appeals, the court shall proceed to levy the amount, by the same process by which it is empowered to carry its decrees for sums of money into execution.

Offender to be summoned to answer for his conduct.

Court how to proceed, if the offender shall not obey the summons.

Persons fined by any *zillah* court under this section to be allowed an appeal to the higher courts under the regulations.

What the decrees of the courts are to contain.

XXVII. The judges of the *zillah* courts shall insert in their decrees, the names of the witnesses whose depositions may have been taken; the title of every exhibit read in the cause; and the amount of the annual produce of the land; or the sum of money; or the value of the property or thing decreed. The decree shall be sealed with the seal of the court, and signed by the judge, and dated on the day on which it may be passed. The judge or the register, either at the time of making the decree, or on a subsequent day (of which the court shall give notice to the parties or their *vakeels*) within ten days after passing the decree, shall deliver or tender, in open court, to each party, or their *vakeels*, a true copy of the decree, authenticated as above directed, with an endorsement made upon it, by the register, of the date on which the copies may be delivered; and an entry of the delivery or tender, with the date on which it may be made, shall be inserted by the register in the margin of the record opposite to the decree. If either of the parties, or their *vakeels*, shall not be present at the time when the decree may be passed, and the prescribed copy of it shall be produced in the court to be delivered; or shall not attend on the subsequent day which may be fixed for the delivery of the copies, after previous notice of the day shall have been given to them; or shall refuse to take the copy of the decree when tendered as above directed; the copy

To be sealed with the seal of the court, and signed by the judge, and dated on the day on which they may be passed.

Judge or register, within ten days, to tender in open court, a copy of the decree to the parties, on a day of which previous notice is to be given.

Register to endorse on the decree the date on which it may be delivered or tendered.

Court how to proceed, in the event of parties or their *vakeels* not being in attend-

shall be deposited amongst the records of the court, and the cause of the copy of the decree not having been delivered to the party shall be noted upon it in writing, and in the margin of the record opposite to the decree, under the official signature of the register.

ance to receive a copy of the decree, or of their refusing to take it.

XXVIII. The form of security bond, as laid down in the following section, or an instrument to that effect, shall be executed by the sureties for the appearance of defendants in the *zillah* courts required by Section 5. of this regulation.

A bond of security to be executed by the sureties for defendants.

XXIX. Whereas a suit has been instituted in the court of *adawlut* of the *zillah* of —— by ———— plaintiff, against ——— defendant; and whereas I ———— inhabitant of ———, have voluntarily become security for the appearance of the said defendant to answer to the above suit, and perform all such orders as may be passed thereupon, until the final decree on it shall have been carried into execution; I do therefore hereby engage and bind myself, my heirs and successors, that the said defendant shall appear in person, or by *vakeel*, to make answer to the plaint against him in the suit aforesaid on the ———, being the day on which his appearance has been required in the said *zillah* court; and further, that the said defendant shall personally attend at the said *zillah* court, whenever the same may be required by the judge thereof, at any time whilst the above suit is depending before the *zillah* court, or provincial court of appeal, or court of Sudder Dewanny Adawlut, or King in Council; or before the final decree which may be passed hereupon by the above courts respectively, shall be fully and completely carried into execution; in default of which, and in the event of my not producing the said defendant when called upon, I will be answerable for such sum as may be adjuged against him, and for the performance of whatever order or decree may be passed against him on the suit above mentioned.

Form of the bond.

A. D. 1803. REGULATION XXXIV.

A REGULATION *for determining the Rate of Interest on Money, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the* 24*th March,* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble

IT being essential to the advancement of commerce and the security of property, that the rate of interest on money, should be fixed and determined; the following rules have been accordingly in that respect enacted. And whereas it has long been a practice to borrow money on the mortgage and conditional sale of landed property, under a stipulation that if the sum borrowed be not repaid (with or without interest) by a fixed period, the sale shall become absolute; which species of transfer has been usually denominated *bye-bil-wuffa*, or *kut-cubbaleh*: And whereas persons lending money on *bye-bil-wuffa*, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, may deny the tender, or evade receiving payment of the money due to them within the period limited for the discharge of it; in such cases the proof of the tender falls on the borrower; and if he fail in the proof of it for want of legal evidence, he is liable to lose his estate:—It is therefore necessary for the security of the borrower in such transactions, that he should have the means of establishing before a court of judicature, his having tendered, or being ready to pay, within the stipulated period, the amount due from him to the lender; who if he mean to act fairly, will also derive a benefit from a rule being laid down, whereby it may be ascertained whether the borrower was willing to redeem his property by the payment of the money lent upon it, within the period agreed upon between the parties; or whether from his having omitted to perform the conditions of such redemption the sale is become absolute, and the property included therein finally transferred to the lender. The Governor General in Council has accordingly been pleased to pass certain rules for the better regulating such transactions.

Rates of interest to be decreed where the cause of action shall have arisen before the 10th November, 1801; and, may not exceed one hundred sicca rupees, or, may exceed that sum.

II. *First.* If the cause of action shall have arisen before the tenth day of November, one thousand eight hundred and one, the courts of civil judicature are not to decree higher or lower rates of interest, than the following:

Second. On sums not exceeding one hundred sicca rupees, two rupees and eight annas per cent. per mensem, or thirty per cent. per annum.

Third. On sums exceeding one hundred sicca rupees, two per cent. per mensem, or twenty-four per cent. per annum.

Rates of interest where the cause of action shall have arisen after the 10th November, 1801, to be twelve per cent.

III. If the cause of action shall have arisen on, or subsequent to the tenth day of November, one thousand eight hundred and one, the courts are not to decree interest on any sum whatever, above the rate of twelve per cent. per annum.

Lower interest than the rate authorized to be decreed, if stipulated between the parties.

IV. Where a lower interest than the authorized rate may have been stipulated between the parties, no higher rate of interest than the rate so stipulated is to be decreed.

Courts not to decree a greater sum for interest, than the amount of the principal, in any case. Exception.

V. If the interest on any debt, calculating according to the rates allowed by this regulation, shall have accumulated so as to exceed the principal, the courts are not in any case whatever, (excepting the cases specified in Section 11,) to decree a greater sum for interest, than the amount of such principal.

Compound interest on intermediate adjustments of accounts not to be allowed. To what cases this rule is not to extend.

VI. The courts are not to decree any compound interest, arising from intermediate adjustments of accounts. This rule, however, is not to extend to cases in which accounts between the parties shall have been adjusted, and the former bonds or agreements cancelled, and new bonds or agreements taken, for the aggregate amount of the principal, and the legal interest remaining due upon the adjustment, consolidated into principal.

Interest on bonds or instruments executed on or subsequent to the 1st January 1804, to be forfeited if beyond twelve per cent. Suit to be dismissed with costs, where the cause of action shall have arisen on or subsequent to the 1st January 1804, if any attempt is made to evade this regulation.

VII. The courts are not to decree any interest whatever, in any case, where the bond or instrument given for the security and evidence of the debt, shall have been granted, on or subsequent to the first day of January, one thousand eight hundred and four, and shall specify a higher rate of interest, than is authorized by Section 3. of his regulation.

VIII. Nor to decree any interest whatsoever in favour of the plaintiff, in any case, where the cause of action shall have arisen on, or subsequent to the first day of January, one thousand eight hundred and four, where a greater interest than is authorized by this regulation, shall have been received, or stipulated to be received, if it be proved that any attempt has been made to elude the rules prescribed in it, by any deduction from the loan or by any device or means whatever, nor to give any other judgment, but for the dismission of the suit, with costs to be paid by the plaintiff.

What interest is to be allowed on mortgage bonds for real property, executed prior, on, or subsequent to 10th November 1801.

IX. In cases of mortgages of real property, executed prior to the tenth day of November, one thousand eight hundred and one, in which the mortgagee may have had the usufruct of the mortgaged property, whether he shall have held it in his own possession or not, the usufruct is to be allowed to the mortgagee, in lieu of interest, agreeably to the former custom of the country, (provided it shall have been so stipulated between the parties,) until the above-mentioned date; subsequent to which, the same interest is to be allowed on such mortgage bonds, and also on all bonds for the mortgage of real property, which have been entered into, on, or since that date, or that may be hereafter executed, as is allowed on other bonds, which have been, or may be granted on, or posterior to such date, and no more; and all such mortgages, are to be considered as virtually and in effect cancelled and redeemed whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufructs of the mortgaged property, subsequent to the tenth day of November one thousand eight hundred and one, or otherwise liquidated by the mortgager.

Mortgagee to deliver in true accounts of his receipts and expenditures.

X. For the adjustment of the accounts, in the cases of mortgages specified in Section 9, where the mortgagee shall have had the usufruct of the mortgaged property, the mortgagee is to be required to deliver in the accounts of his gross receipts from the property mortgaged, and also of his expenditures, for the management or preservation of it. The mortgagee is to swear, or (if he be of the description of persons whom the courts are empowered to exempt from taking oaths) to subscribe a solemn declaration, that the accounts which he may deliver in, are true and authentic. The mortgager is to be permitted to examine the accounts, and after hearing any objections he may have to offer, or any evidence that either party may have to adduce, respecting them, the court is to adjust the account.

Rules in the preceding sections not to extend to respondentia loans, or policies of insurance.

XI. The rules contained in the preceding sections, are not to be considered to extend to respondentia loans, or policies of insurance, the interest on which is to be regulated by the terms of the deeds, and the laws and usages which prevail respecting such transactions.

Persons who have borrowed money on a conditional sale of land, and who may be desirous of redeeming the land by payment of the money lent upon it, how to proceed for this purpose. May, within the stipulated period, either tender and pay the amount due, to the lender, or deposit the

XII. In all instances of the loan of money *bye-bil-wuffa*, or on the conditional sale of landed property, however denominated, as explained in the preamble to this regulation, the borrower, who may be desirous to redeem his land by the payment of the money lent upon it with any interest due thereon within the stipulated period, is at liberty, on, or before the date stipulated, either to tender and pay to the lender the amount due to him, taking such precautions as he may think necessary to establish such tender and payment, if evaded or denied; or without any tender to the lender, to deposit the amount due to him, on, or before the stipulated date, in the court of *adawlut* of the *zillah* in which the land may be situated, and the judge receiving the same shall furnish the party with a written receipt for the amount, specifying on what date and for what purpose such deposit may have been made. He shall also, at

the same time, cause a written notice of such deposit to be delivered to the lender, and on the application of the latter, and his surrender of the conditional bill of sale, or shewing satisfactory cause why it cannot be surrendered, shall pay him the amount deposited, and take his acknowledgment, to remain among the records of the court. That there may be no doubt to what amount the deposit in question is to be made, it is required to be as follows. When the lender has not obtained possession of the lands, the deposit is to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent. per annum, or if interest be payable, and no rate has been stipulated, with interest at the established rate of twelve per cent.; but if the lender has held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he has been in possession. In either case, a deposit made as above required, shall be considered to preserve to the borrower his full right of redemption, and if the land be in the possession of the lender shall entitle him to demand the immediate recovery thereof, subject to the adjustment of accounts specified in the following section. Provided, however, that if the borrower in any case shall deposit a less sum than above required, alleging that the sum so deposited is the total amount due to the lender, for principal and interest, after deducting the proceeds of the lands in his possession, or otherwise, such deposit shall be received, and notice given to the lender as above directed; and if the amount so deposited be admitted by the lender, or be established, on investigation, to be the total amount due to him, the right of redemption shall be considered to have been fully preserved to the borrower; who will not, however, in such cases, be entitled to the recovery of his lands until it be admitted, or established, that he has paid the full amount due from him.

same in the local court of *adawlut*

Receipt to be given by the judge for such deposit.

Notice be given to the lender, and payment to be made to him, under restrictions.

Specification of the deposit required.

Rights of the borrower preserved by making the required deposit.

Proviso, with respect to deposits less than above required, if alleged to be the total amount due.

Such deposits to be also received; and to preserve the borrower's rights, if admitted, or established, to be the total amount due.

XIII. In all instances where the lender on a *bye-bil-wuffa*, or similar conditional sale, may have been put in possession of the land, and an adjustment of accounts may consequently become necessary between him and the borrower, the lender is to account to the borrower for the proceeds of the estate whilst in his possession, on the principles prescribed with regard to mortgages and interest in this regulation, so far as the same may be applicable to the nature of the case. But such part of Section 9, as directs that the mortgages therein referred to, are to be considered as cancelled and redeemed, whenever the principal sum, with the simple interest due upon it, shall have been realized from the usufructs of the mortgaged property, or otherwise liquidated by the mortgagee, shall not be held applicable to the conditional sales, under the denomination of *bye-bil-wuffa*.

When the lender has possessed the land, and an adjustment of accounts may be necessary, he is to account for the proceeds of the estate, on the principles prescribed in this regulation.

Exception.

XIV. A *teep* for the repayment of money lent on the conditional sales of *bye-bil-wuffa* shall not be considered a legal tender, unless accepted as such by the lendder, the proof of which acceptance shall be the lender's giving up the bill of sale, or giving a written acknowledgment that he has received back the money lent by him.

Teeps not to be considered a legal tender, in cases referred to, unless accepted by the lender.

Such acceptance how to be proved.

XV. Nothing in this regulation being intended to alter the terms of contract settled between the parties in the transactions to which it refers, (illegal interest excepted,) the several provisions in it are to be construed accordingly; and any question of right between the parties is to be regularly brought before and determined by the courts of civil justice.

Nothing in this regulation to alter the contract between the parties.

And all questions of right to be regularly determined by the civil courts.

A. D. 1803. REGULATION XLIX.

A REGULATION *for the occasional Appointment of assistant Judges of the zillah and City Dewanny Adawluts; for altering and extending the Jurisdiction of the Registers of these Courts; for fixing a new Limitation of Appeals from the Zillah and City Courts to the Provincial Courts of Appeal; for authorizing the Appointment of head native Commissioners, for the Trial of referred Causes, to the Amount or Value of one hundred Sicca Rupees; and for amending the existing Rules concerning the Appointment and Powers of native Commissioners for the Trial of Suits for personal Property not exceeding fifty Sicca Rupees.*—PASSED *by the Governor General in Council, on the 5th May* 1803; *corresponding with the 24th Bysaak* 1210 *Bengal era; the 28th Bysaak* 1210 *Fussily; the 24th Bysaak* 1210 *Willaity; the 28th Bysaak* 1860 *Sumbut; and the 13th Mohurrum* 1218 *Higeree.*

Preamble.

THE number of civil causes depending before the judges of some of the *zillah* and city courts being so considerable, that great delay must occur in the investigation and decision of them, and of other causes that may be instituted previous to their determination, unless some provision be made to expedite the same; and the accumulation of such causes having chiefly proceeded from accidental circumstances, the effect of which may be removed by a temporary arrangement for the trial and decision of the causes in arrear, without a permanent alteration of the established jurisdictions; it is expedient that provision be made for the occasional appointment of an assistant judge, to assist in the trial and decision of causes depending before the judge of any *zillah* or city court in which such an appointment is now required, under the circumstances above stated; or may hereafter become requisite, under a recurrence of similar circumstances. To expedite the general administration of justice in the *zillah* and city courts, it is also expedient that the judges should be empowered to refer for trial in the first instance to their registers suits exceeding in amount or value the sum to which they are at present restricted in such references; and that the appointment of a head native commissioner should be authorized, in any *zillah* or city wherein such appointment may appear advisable, for the trial of any suits which the judge may refer to him, not exceeding in amount or value the sum of one hundred sicca rupees. To enable the *zillah* and city judges to maintain the most efficient control over the native commissioners of every description acting under them in the administration of justice; and to bring the official conduct of such commissioners in all cases before the judges; as well as to enable the parties in every suit, tried in the first instance by a native commissioner, to obtain, on appeal, a further trial and decision by the *zillah* or city judge, it is at the same time deemed proper to discontinue the appellate jurisdiction, which by Regulation III. 1800, was vested in the registers of the *zillah* and city courts for the trial of appeals from decisions of the native commissioners, when the property in dispute might not exceed twenty-five sicca rupees. And as suits within this amount, tried by the register, or by the judge, in the first instance, may sometimes involve questions of a general and important nature, wherein an erroneous decision, not revocable by appeal, might be of serious ill consequence; it is further judged expedient to rescind Section 6, Regulation VIII. 1794, whereby the decision of the register was made final in suits

not exceeding the above amount; to qualify Section 11, of the same regulation, by enabling the provincial courts of appeal to admit, upon sufficient cause, a special appeal in such cases, when tried in the first instance by the judges of the *zillah* or city courts; as well as in all cases wherein a regular appeal may not be open to them from the decisions of the *zillah* and city courts. The allowance of such special appeal to the provincial courts, in all cases that may appear to require it, will at the same time admit of some limitation of the regular appeals to the provincial courts, beyond what is now fixed; especially when the cause may have been tried in the first instance by the register of the *zillah* or city court, and his decision may be confirmed by that of the judge. By clause sixth, Section 5, Regulation XL. 1793, the selection of native commissioners to be invested with the powers of *munsiff* (with an exception to the commissioners in large towns, *bazars*, *gunjes*, *hauts* and *aurungs*, whom the court of Sudder Dewanny Adawlut are authorized by clause seventh, to empower to act as *munsiffs*, and to define their jurisdiction,) is restricted to proprietors or farmers of land, and their under-renters, or officers employed by them in the management of their estates or farms, and the native officers employed by Government in the collection of the land-revenue. The original jurisdiction as *munsiffs* is also limited to the cognizance of suits preferred to them against under-renters or *ryots*, in the estate, farm, or *mohaul*, in virtue of which they may have been invested with the office of commissioner, or to which their jurisdiction may be extended by the court of Sudder Dewanny Adawlut. The powers of *munsiff*, thus specially authorized, were chiefly intended for the assistance of the land-holders and farmers of land in the recovery of arrears of rent from their under-tenants. But more effectual means for this purpose have since been provided by Regulation VII. 1799, whereby the levy of distress for arrears of rent has been facilitated; and if this be insufficient, or if the landholders and farmers should not be desirous of having recourse to it, they are enabled to cause the immediate arrest of the defaulting tenant and his surety; their confinement on a summary inquiry by the judge of the district till the arrears due from them be discharged; and the attachment of the farm, *jote*, or other tenure of the defaulter. It is therefore no longer necessary to continue the office of *munsiff* for the particualr aid of the landholders and farmers in the recovery of arrears of rent; and abuses, which have arisen from the indiscriminate exercise of the powers of *munsiff* by the descriptions of persons specified in the clause above cited, shew the expediency of restricting them in future to the functions of referee and arbitrator; unless, in particular instances, from the character and known qualifications of the person appointed to act as commissioner, it should be judged proper to select him for the office of *munsiff*. The general convenience of the inhabitants, especially of those who reside at a distance from the *zillah* courts, will however be much promoted by the appointment of well qualified persons, with the original jurisdiction of *munsiffs*, for the cognizance of all suits preferred to them for money or other personal property, within the present limitation of fifty sicca rupees, (not being for damages on account of personal injuries, or other personal damages; for which, under experienced litigiousness in such cases, no suit should be tried by a native commissioner without reference from the judge;) and the extent of the police jurisdictions in Bengal, Behar, and Orissa, formed under Section 4, Regulation XXII. 1793, being ten *coss* square, (as far as local circumstances have admitted,) with the principal towns, *bazars*, or *gunjes*, in the centre of them, the appointment of a native commissioner with the powers of *munsiff*, in addition to those of referee and arbitrator, for the ascertained limits of each police jurisdiction, to be stationed in the central town, *bazar*, or *gunje*, or in some other central part of the jurisdiction, will be in exact correspondence to the rule contained in clause second, Section 5, Regulation XL. 1793; whereby it was directed that the number of native commissioners in each *zillah*, where local circumstances would admit, should be such that a defendant might not be obliged to proceed a greater distance than five coss to answer any suit that may be preferred against him. To provide accordingly for the several objects above stated, and, at the same time, to amend some of the existing rules for the trial of suits cognizable by the native commissioners, as well as to make further provision for promoting the general and speedy administration of civil justice; His Excellency the Most Noble the Governor General in Council has enacted the following regulation, to be in force from the promulgation of it, in the provinces of Bengal, Behar, Orissa, and Benares.

II.

II.* First. *When the number of civil causes depending before the judge of any* zillah *or city court may be such as to require the aid and appointment of an assistant judge for the speedy investigation and decision of such causes, the Governor General in Council, at the recommendation of the court of Sudder Dewanny Adawlut, or otherwise, if it shall appear to him expedient, will appoint an assistant judge for the* zillah *or city wherein it may be requisite, to be denominated, "assistant judge of the* dewanny adawlut" *of such* zillah *or city; who, previously to entering upon the execution of the duties of his office, shall take and subscribe, before the Governor General in Council, or before any person whom he may commission to administer it, the same oath as is directed by Section* 3, *Regulation III.* 1793, *to be taken and subscribed by the judges of the* zillah *and city courts.*

Provision for appointment of assistant judges, when requisite.

Oath to be taken by persons so appointed.

Second. *The assistant judges so appointed are empowered to try and decide, according to the regulations in force for the administration of civil justice, any causes depending before the judge of the* zillah *or city in which they may be appointed to officiate, that shall be referred to them by the judge; and the judges of the* zillahs *and cities wherein such assistant judges may be appointed, are empowered to refer to them, from time to time during the continuance of such special appointments, any cause or causes depending in their respective courts; whether original suits, or appeals from the decisions of their registers, or of the native commissioners.*

Powers of assistant judges:

And authority to zillah *and city judges for referring to them any depending causes.*

Third. *The selection of the particular causes to be so referred to the assistant judges, and the number of causes to be referred to them at any one time, are left to the discretion of the* zillah *or city judge, on a general consideration of the business depending before himself and register, and the number of causes already under reference to the assistant judge: but he is to be guided, as far as circumstances may admit, by the rule contained in Section* 19, *Regulation IV.* 1793, *which directs, with certain exceptions, that depending causes be brought on for trial according to the order in which they may be filed. This rule is also to be observed by the assistant judges, in the trial of causes referred to them.*

What causes to be referred to the assistant judges, and what number at a time.

General rule to be observed in referring and trying such causes.

Fourth. *The assistant judges appointed under this regulation are to try the suits referred to them in open court, to be held in the court-house of the* zillah *or city* dewanny adawlut, *or in some convenient place adjacent thereto; and a sufficient number of authorised pleaders of the* zillah *or city court shall be directed to attend the court of the assistant judge; or, if necessary, an additional number shall be appointed for this purpose under the provisions contained in Regulation VII.* 1793. *Any additional establishment of ministerial officers, which may be required to attend the assistant judges, in performance of the duties prescribed by Regulation XIII.* 1793, *will also be provided for by the Governor General in Council. But the Mahomedan and Hindoo law officers of the* zillah *and city courts are to expound the law, in all cases wherein it may be requisite, for the determination of causes referred to the assistant judges.*

Assistant judges to try causes in open court.

Court where to be held.

Authorised pleaders to attend the court:

And additional pleaders to be appointed, if necessary.

Governor General in Council will provide the requisite establishment of ministerial officers.

But law officers of the zillah *and city courts to expound the law.*

Fifth. *All process which it may be necessary to issue, in suits referred for trial to an assistant judge, shall be issued under the seal of the* zillah *or city court, and the signature of the assistant judge; and shall be executed by the officers of the* zillah *or city court, in like manner as all similar processes are issued in causes tried by the judge. The process signed by an assistant judge in suits referred to him shall be considered of the same force and validity as process signed by the judge; and any disobedience or resistance thereto shall be equally liable to the penalties declared by the regulations, for disobedience or resistance to similar process issued by the judges of the* zillah *and city courts.*

Process in suits referred to assistant judges, by whom and in what manner to be issued.

Penalty for disobedience or resistance to such process.

Sixth. *In the trial of all causes referred to an assistant judge, he is to be guided by the same rules as are prescribed for the trial of the same causes before the judges of the* zillah *and city courts; and his decisions are to be held final, or appealable to the provincial court of appeal of the division, under the prescribed rules for appeal, according as the cause would or would not have been appealable to the provincial court, if it had been decided by the judge of the* zillah *or city court.*

Rules to be observed by assistant judges in the trial of all causes referred to them.

And in what cases their decisions to be held final, or appealable to the provincial courts of appeal.

* Rescinded by Section 2, Regulation XXIV. 1814.

Process of provincial court respecting causes depending before, or decided by, assistant judges, how to be transmitted and executed.

Returns from assistant judges, and all communications from them, to the provincial courts, or other courts or officers, how to be made.

In matters of practice and form not provided for by the regulations, assistant judges to be guided by instructions of the court of Sudder Dewanny Adawlut.

Sudder Dewanny Adawlut to report to the Governor General in Council, when of opinion that an assistant judge should be appointed in any zillah *or city.*

As well as when such appointment may appear no longer necessary.

Provision for the temporary execution of the duties of judge and magistrate in any zillah *or city wherein an assistant judge may have been appointed, during the absence or on the removal of the judge and magistrate.*

Or in any of the cases specified in Section 5, Regulation IV. 1796, when the assistant judge may be present, and senior in the Company's service to the register.

Authority of zillah *city judges to refer causes to their registers for trial and decision in the first instance, extended to suits for personal property not exceeding five hundred sicca rupees; or for* malguzaree *land the annual produce of which may not exceed five hunded sicca rupees, or for* lakheraj *land not producing above fifty sicca rupees per annum; or for other real property, the computed value of which may not be above five hundred sicca rupees.*

Rules by which the registers are to be guided in the trial of all causes so referred to them.

Seventh. *In cases wherein an appeal may lie to the provincial court from the decision of an assistant judge, as well as in all cases wherein a provincial court of appeal may have occasion to issue process with respect to causes decided by or depending before an assistant judge, such process shall be transmitted to the judge of the* zillah *or city, who shall forward the same to the assistant judge; or shall himself comply with the exigency of it, if the assistant judge be not at the time present; or his office shall have been discontinued; or, if from any other cause, such process cannot be complied with by the assistant judge. In like manner, all returns to the provincial court by an assistant judge, as well as all other communications by an assistant judge to a provincial court, or to any other court, authority, or office, shall be made through the judge of the* zillah *or city wherein he is employed.*

III. In all matters relating to practice and form, not provided for by this or any other regulation, the assistant judges, who may be appointed under the preceding section, shall be guided by such instructions as they shall receive, through the judges of the zillah *or city courts to which they may be attached, from the court of Sudder Dewanny Adawlut.*

IV. The court of Sudder Dewanny Adawlut are to report to the Governor General in Council, whenever, from the number of causes depending before the judge of any zillah *or city court, they may be of opinion, that an assistant judge should be appointed under this regulation; as well as when, from the decision of the causes in arrear, or for any other reason, such provisional appointment may appear to them no longer necessary.*

V. If the judge and magistrate of any zillah *or city, wherein an assistant judge may have been appointed, shall be removed from his station, or shall obtain leave of absence from his station, during the continuance of the appointment of such assistant judge, the Governor General in Council will determine, under Section 3, Regulation IV. 1796, whether to delegate the temporary execution of the duties of judge and magistrate to the person holding the office of assistant judge; or to make other provision for the same, as he may deem proper. But in case the offices of judge and magistrate of any* zillah *or city, where an assistant judge may have been appointed, shall become vacant by the death of the judge and magistrate, as well as in any of the cases specified in Section 5, Regulation IV. 1796, wherein the charge of the offices of judge and magistrate may temporarily devolve to the senior judicial officer upon the spot, the person holding the office of assistant judge, if present, and senior in the Company's service to the register, shall take the temporary charge of the offices of judge and magistrate; and shall be authorised to exercise such part of the powers of judge and magistrate as may be necessary for the purposes specified in the regulation and section above mentioned; making at the same time the report thereby required to the Governor General in Council, for his special orders on the case.*

VI. First. *In addition to the authority vested in the judges of the* zillah *and city courts by Section 3, Regulation VIII. 1794, (extended to Benares by Regulation LIV. 1795,) for referring to their registers suits for money or other personal property, not exceeding in amount or value the sum of two hundred sicca rupees; or for* malguzaree *land, the annual produce of which may not be above two hundred sicca rupees; or for* lakheraj *land, the produce of which may not be more than twenty rupees; the judges of the above courts, whenever, on consideration of the number of causes under reference to their registers, and the number depending before themselves, it may appear to them conducive to the more speedy administration of justice, are hereby empowered to refer to their registers, for trial and decision in the first instance, any causes depending in their respective courts, for money or other personal property not exceeding in amount or value the sum of five hundred sicca rupees; or for* malguzaree *land, the annual produce of which may not exceed five hundred sicca rupees; or for* lakheraj *land, the produce of which may not be more than fifty sicca rupees per annum; or for any other description of real property, the computed value of which may not be above five hundred sicca rupees.*

Second. *In the trial of all causes referred to the registers of the* zillah *and city courts under the preceding clause, they shall be guided by the rules prescribed in Regulation VIII. 1794, and by the general rules for the trial of civil suits therein referred to.*

Third. *Section 6, Regulation VIII.* 1794, *whereby the decision of the registers to the* zillah *and city courts was made final in suits for money or other personal property not exceeding twenty-five sicca rupees, is hereby rescinded; and an appeal shall hereafter lie to the* zillah *and city judges, from all decisions passed by their registers; provided the appeal be preferred in conformity to Section* 3, *Regulation XXXVI.* 1795; *and the general rules for appeals therein referred to.*

Section 6, Regulation VIII. 1794, *rescinded.*

Appeal to lie to the zillah *and city judges from all decisions passed by their registers, under prescribed rules for such appeals.*

Fourth. *Regulation III.* 1800, *whereby the judges of the* zillah *and city courts were empowered to refer to their registers appeals from the decisions of the native commissioners appointed under Regulation XL.* 1793, *provided the property in dispute should not exceed twenty-five sicca rupees, and the decrees of the registers thereon are declared final, is hereby rescinded. Decisions passed by the registers upon such appeals, previously to the receipt of this regulation, shall however remain in force, (subject to the discretionary revision of the judge, authorized by Section* 6, *Regulation VIII.* 1794,) *and all such appeals which may have been referred by the judges of the* zillah *and city courts, to their registers, and shall be depending before the latter on the receipt of this regulation, may at the option of the judges, be left to the decision of their registers, subject to an appeal to themselves under the preceding clause of this section; or the judges may recal from their registers the reference of such depending appeal, and determine the same themselves; or direct a new trial, under the provisions contained in this regulation.*

Regulation III. 1800, *rescinded.*

Provision respecting decisions passed under that regulation previously to the receipt of the present regulation.

Also respecting appeals from decisions of the native commissioners, which may be depending before the registers of the zillah *and city courts, on the receipt of this regulation.*

Fifth. *The judges of the* zillah *and city courts are also at all times authorized to recal from their registers any suits referred to them, under the present and former regulations, which may not have been decided by their registers; and which, for the more speedy administration of justice, or for any other reason, they may deem it proper to try and determine themselves in the first instance; or to refer for trial to a native commissioner, if the suits be referrible to such, under the regulations.*

Judges of zillah *and city courts authorized at all times to recal any undecided suits referred to their registers; and to try the same themselves; or refer them to a native commissioner, if referrible to such under the regulations*

VII. First. *Clause sixth, Section* 4, *Regulation VI.* 1797, *is hereby rescinded; and instead of the proportions of fees therein specified, the registers, by whom any suit may be determined on investigation of the merits of the case, or before whom a suit may be depending when adjusted by* razeenamahs *of the parties, after the receipt of this regulation, shall be entitled to receive a moiety of the fee paid upon the institution of such suit.*

Clause sixth, Section 4, *Regulation VI.* 1797, *rescinded. Registers to receive a moiety of the institution fee upon suits determined by them on investigation, or adjusted before them by* razeenamahs.

Second. *Nothing however in the above clause, or in any other regulation shall be hereafter considered to entitle any register to receive any part of the institution fee upon suits dismissed by him on non-attendance of the plaintiff, or for any other ground of nonsuit or default, without a determination of the merits of the case, or an adjustment by* razeenamahs *of the parties.*

No part of the institution fee to be received by registers upon suits dismissed on non-attendance of the plaintiff, or other ground of nonsuit or default.

Third. *It is further hereby provided, that whenever an acting register may be appointed during the absence of the register of a* zillah *or city court, or during a vacancy of the office of register, such acting register shall be entitled to receive the proportion of the institution fee allowed by this regulation upon all suits determined by him on investigation of their merits, or which may be depending before him when adjusted by* razeenamahs *of the parties.*

Acting registers to receive the proportion of the institution fee allowed by this regulation upon suits determined by them on investigation, or adjusted before them by razeenamahs.

VIII. First. *Such part of Section* 4, *Regulation XXXVI.* 1795, *as declares the decrees of the* zillah *and city courts in appeals from decisions for money or personal property, passed by their registers under Regulation VIII.* 1794, *to be final, is hereby rescinded; and the rules contained in the two following clauses, are substituted for all decrees which after the receipt of this regulation, may be passed by the judges of the* zillah *and city courts, in appeals from decisions of their registers, whether in suits for money or other personal property; or in suits for land or other real property.*

Part of Section 4, *Regulation XXXVI.* 1795, *rescinded*

And rules contained in two following clauses substituted.

Second. *If the suit be for personal property, or for any description of real property not being* malguzaree *or* lakheraj *land, and the amount or value adjudged or disallowed by the decree of the judge shall not exceed one hundred sicca rupees; or if the suit be for land, and the judgment be for, or against, a claim to* malguzaree *land, the annual produce of which (as defined in Section* 3, *Regulation IV.* 1793,) *may not exceed one hundred sicca rupees; or* lakheraj *land, the annual produce of which may not be above*

In what cases the decrees of the zillah *and city judges upon appeals from the decisions of their registers shall be final.*

ten sicca rupees ; or, although the decrees of the judge be for or against claims to personal or real property exceeding the amount, value, or produce above specified, if the suit be within the limitation of causes referrible to the register, and the decree of the judge shall confirm the decision of the register, the determination of the judge shall be final ; unless the provincial court of appeal deem it proper to admit a special appeal to that court, under the discretion given by Section 24. of this regulation.

Unless a special appeal be admitted by the provincial court under Section 24. of this regulation.

Third. *If the judge's decree reverse or alter the register's decision, and the amount or value adjudged or disallowed by the decree of the judge exceed one hundred sicca rupees ; or if the judgment so passed in opposition to, or variation from that of the register, be for or against a claim to* malguzaree *land, the annual produce of which may exceed one hundred sicca rupees ; or* lakheraj *land, the annual produce of which may be above ten sicca rupees ; a further appeal shall lie to the provincial court of appeal, under the prescribed rules for appeals to that court.*

In what cases an appeal shall lie to the provincial courts from the decrees of the zillah *and city judges on appeals from the decisions of their registers.*

IX.* First. *In addition to the native commissioners appointed under Regulations XL.* 1793, *and XXXI.* 1795, *for the trials of suits for personal property not exceeding fifty sicca rupees; and the commissioners of land suits in* zillah *Chittagong, authorized by Regulation XVIII.* 1797, *for the trial of suits for landed property, the annual produce whereof, if* malguzaree, *may not exceed fifty sicca rupees; or five rupees per annum, if* lakheraj ; *the court of Sudder Dewanny Adawlut are empowered to authorise the appointment of a head native commissioner in any city or* zillah *wherein such appointment may, on representation from the city or* zillah *judge, or otherwise, appear to the court advisable, for the trial of any suits that may be referred to him by the* zillah *or city judge, for personal property not exceeding in amount or value one hundred sicca rupees; or for the property or possession of land, the annual produce of which, if* malguzaree, *may not be above one hundred sicca rupees; or more than ten sicca rupees, if* lakheraj; *or for any other description of real property, the computed value of which may not exceed one hundred sicca rupees.*

Court of Sudder Dewanny Adawlut empowered to authorise the appointment of a head native commissioner, in any zillah *or city wherein it may appear advisable, for the trial of suits for property not exceeding in amount or value the sum of one hundred sicca rupees ; or for* malguzaree *land, the annual produce of which may not be more than one hundred sicca rupees, or for* lakheraj *land not producing above ten sicca rupees per annum.*

Second. *Such head commissioners are to be nominated by the judges of the* zillahs *and cities, and approved by the court of Sudder Dewanny Adawlut; to receive* sunnuds *of appointment under the seal and signature of the judge in whose jurisdiction they may be appointed to act; and not to be removed from office without sufficient cause, proved to the satisfaction of the Sudder Dewanny Adawlut; as provided with respect to the present native commissioners by Section* 3. *Regulation XL.* 1793.

Such head commissioners by whom to be nominated and approved; sunnuds of appointment to be issued to them ; and not to be removed without sufficient cause proved to the satisfaction of the Sudder Dewanny Adawlut.

Third. *The* zillah *and city judges are not restricted to any particular descriptions of persons in the selection of head commissioners to be nominated by them under this section; but are required to be particularly careful in selecting persons of good character and known ability, as well as duly qualified by their education and past employments, to discharge satisfactorily the trust reposed in them. The judges are in every instance to report to the Sudder Dewanny Adawlut the information they may have obtained on these points, respecting any person proposed by them to be head native commissioner.*

Rules for the selection of persons to be nominated by the zillah *and city judges for the office of head commissioner.*

And for report to be made to the Sudder Dewanny Adawlut in such cases.

Fourth. *Every head commissioner, previously to entering upon the execution of the duties of his office, shall take and subscribe, before the judge of the* zillah *or city in which he may be appointed to act, an oath similar to that prescribed in Section* 7, *Regulation XL.* 1793 ; *and shall be liable to prosecution in the* dewanny adawlut *for corruption in discharge of his trust, or for any other oppressive or unwarranted act in his public capacity, under the provisions contained in Section* 8. *of that regulation.*

Oath to be taken by head commissioners.

Liable to prosecution for corruption, or any oppressive or unwarranted act in their public capacity, under Section 8, *Regulation XL.* 1793.

Fifth. *The head commissioner of each* zillah *or city is to be denominated "Sudder Ameen," or head referee, of such* zillah *or city; and is to hold his* cutcherree *at the station where the* zillah *or city court is held, in such adjacent place as the judge may direct.*

How to be denominated ; and where to hold their cutcherrees.

Sixth. *The judges of the* zillahs *and cities wherein head referees may be appointed under this regulation, are authorized to refer to them for trial and decision any suits for money or other peronsal property, or for land, or other real property, within the*

What suits may be referred by the judges of the zillah *and city courts to the head commissioners appointed under this regulation.*

limitations specified in clause first of this section, which may be now depending before themselves, or their registers, or may be hereafter instituted in their respective courts, and which the judges in the exercise of the discretion vested in them by Section 11, *Regulation VIII.* 1794, *and by Section* 6. *of the present regulation, may not deem it proper to try themselves in the first instance; or to refer to their registers; or to leave to the determination of the latter, although referred to them, in consideration of the number of the causes under reference to them, or otherwise.*

Seventh. *The rules prescribed in the fourth, sixth, and several succeeding clauses of Section* 9, *Regulation XL.* 1793, *respecting suits referrible to the* mofussil *native commissioners in their capacities of referees, or* ameens, *shall be held applicable to suits referrible to the* sudder ameens, *or head referees, appointed under the present regulation.*

Fourth, sixth, and succeeding clauses of Section 9, *Regulation XL.* 1793, *applicable to suits referrible to head commissioners.*

Eighth. *Sections* 13, 14, 15, 16, 17, *and* 18, *Regulation XL.* 1793, *defining the powers of the native commissioners authorized by that regulation, the mode of enforcing their decisions, and the reports to be made of causes decided by, and depending before them, as well as the provisions contained in Sections* 20, 21, 22, 23, 24, *and* 25, *Regulation XL.* 1793, *for appeals from the decisions of the native commissioners therein described, to the* zillah *and city courts, and for bringing before the judges of those courts, or (on reference from them) before their registers, any causes depending before the native commissioners, are also declared applicable to the head native commissioners, who may be appointed under this regulation; and to all suits which may be depending before, or decided by them.*

Sections 13. *to* 18, *and* 20 *to* 25, *Regulation XL.* 1793, *also declared applicable to head commissioners appointed under this regulation, and the suits referred to them.*

Ninth. *The special rules prescribed in Section* 5, *Regulation XVIII.* 1797, *for the guidance of the commissioners of land suits in the* zillah *Chittagong, shall be likewise strictly observed by the head commissioners appointed under this regulation, in all suits which may be referred to them, relative to the inheritance of, or succession to landed property.*

The rules prescribed in Section 5, *Regulation XVIII.* 1797, *to be likewise observed by the head commissioners appointed under this regulation.*

Tenth. *All causes referred to a head native commissioner under this regulation, shall be pleaded by the parties in person, or by an authorized* vakeel *appointed in conformity to Regulation VII.* 1793. *The judges of the several* zillahs *and cities in which there may be head commissioners, are to apply to the court of Sudder Dewanny Adawlut for the appointment of any additional number of pleaders required to be attached to their respective courts for the pleading of causes referred to such commissioner; and a discretion is vested in all the judges of the* zillah *and city courts, to make any allotment of the established pleaders, attached to their respective courts, which may be found convenient for the trial and pleading of causes before the head commissioners appointed under this regulation; as well as before themselves, their registers, and the assistant judges. The pleaders employed in all such causes shall be entitled to receive the authorized fees thereupon, under the provisions contained in Regulation VII.* 1793, *and any other regulation respecting the fees of pleaders in the* zillah *and city courts. But the fee of four annas, authorized by clause third, Section* 9, *Regulation XL.* 1793, *for obtaining the reference of a cause to a native commissioner, shall not be received in addition to the retaining fee of four annas, authorized by Section* 7, *Regulation VII.* 1793, *when the same pleader may be employed to obtain the order of reference to a head native commissioner, and to plead the suit before such commissioner under this regulation.*

Causes tried by head commissioners to be pleaded by the parties, or by authorized vakeels.

Judges to apply for the appointment of any additional pleaders required.

Discretion vested in judges to make any allotment of the pleaders attached to their respective courts, which may be convenient for the pleading of causes, before themselves, their registers, and the head native commissioners; as well as before the assistant judges appointed under this regulation.

Fees to be received by pleaders in all causes. Proviso, when the same pleader may be employed to obtain the order of the judge for referring a suit to a head commissioner, and for pleading the suit before such commissioner.

Eleventh. *In pursuance of Section* 20, *Regulation VII.* 1800, *the pleadings held before the head native commissioners, who may be appointed under this regulation, are not required to be written upon stampt paper; nor will the exhibit fees prescribed by Section* 5, *Regulation VI.* 1797, *be payable on exhibits delivered upon the trial before them. But the use of stampt paper, and the payment of the exhibit fee, will be requisite upon the pleadings and exhibits filed on appeals from the decisions of the head native commissioners to the* zillah *and city courts, in conformity to the above regulation.*

The pleadings held before head native commissioners not required to be written upon stampt paper. Nor will any exhibit fee be payable on exhibits delivered upon the trial before them. But the use of stampt paper and payment of the exhibit fee prescribed by Section 5, *Regulation VI.* 1797, *re-*

Twelfth. *The court of Sudder Dewanny Adawlut are authorized to prescribe any additional rules of form and practice, which may be found necessary, or expedient, for the guidance of the head native commissioners appointed under this regulation, or for the*

quisite upon pleadings and exhibits filed on appeals from the decisions of the head commissioners.

Sudder Dewanny Adawlut authorized to prescribe any additional rules of form and practice for the head commissioners, and native commissioners in general.

the guidance of the native commissioners in general, so that the same be not repugnant to any existing regulation.

X. On receipt of this regulation, as well as at any future period, the several zillah *and city judges, who on consideration of the number of depending causes referred or referrible to their registers, may be of opinion that it will be advisable for the more speedy administration of justice, to appoint a head native commissioner at their respective stations under the provisions contained in this regulation, are to report the same to the court of Sudder Dewanny Adawlut; and at the same time to propose a person for the office, in conformity to clause third of the preceding section.*

Zillah *and city judges to report to the Sudder Dewanny Adawlut, on receipt of this regulation, and hereafter if they think it advisable, to appoint a head native commissioner at their respective stations; and at the same time to propose a person for the office.*

XI. First. *As a compensation to the head native commissioners who may be appointed under this regulation, for their trouble, and for the expense of such establishment as may be necessary for the discharge of their official duties, on their passing a decision upon the merits of any suit referred to them, or upon any suit depending before them being adjusted by* razeenamahs *of the parties, they shall receive from the* zillah *(or city) court the fee of one anna per rupee paid on the institution of such suit, under Section 4, Regulation VI.* 1797. *If, in any instance, this allowance shall be found insufficient for the above purposes, the Governor General in Council, on the representation of the* zillah *or city judge, and at the recommendation of the court of Sudder Dewanny Adawlut, will sanction such addition thereto as may appear requisite for the encouragement of well qualified persons to hold the office of head native commissioner, and to perform the duties of it with diligence and fidelity.*

Institution fee allowed to head commissioners upon suits decided by them, or adjusted before them.

Provision for further allowance, if requisite.

Second. *Nothing in the above clause however shall be considered to entitle any head native commissioner to receive the institution fee upon any suit referred to him, which may be dismissed upon non-attendance of the plaintiff, or upon any other ground of nonsuit or default, without a determination upon the merits of the case, or an adjustment by* razeenamahs *of the parties.*

Institution fee not receivable by head commissioners on suits dismissed by them, upon any ground of nonsuit or default.

Third. *It is further hereby declared, that native commissioners appointed under Regulations XL.* 1793, *and XXXI.* 1795, *(or in* zillah *Chittagong under Regulation XVIII.* 1797*;) who by clause fourth, Section* 3, *and clause seventh, Section* 4, *Regulation VI.* 1797, *have been allowed to receive the institution fee upon suits determined by them, or depending before them when adjusted by the* razeenamahs *of the parties, shall not be hereafter considered to be entitled to such fee upon any suit which may be dismissed by them on non-attendance of the plaintiff, or upon any other ground of nonsuit or default, without a determination upon the merits of the case, or an adjustment by* razeenamahs *of the parties.*

The same restriction extended to the native commissioners appointed under Regulations XL. 1793, *XXXI.* 1795, *and XVIII.* 1797.

Fourth. *Clause fourth, Section* 3, *Regulation VI.* 1797, *is hereby rescinded. Native commissioners vested with the powers of* munsiff, *who, by Section* 3, *Regulation VI.* 1797, *are authorized and directed to levy from the plaintiff in any suit preferred to them in the first instance, a fee of one anna in the rupee on the amount or value which may constitute the subject of the suit, shall, from the month succeeding the receipt of this regulation, together with the monthly reports required from them by Section* 15, *Regulation XL.* 1793, *transmit to the judge of the* zillah *or city in which they may be employed an exact monthly statement of all sums levied and received by them on account of the above fee, upon suits instituted before them in their capacity of* munsiffs; *and shall at the same time remit the amount of the fees so received by them in the preceding month. The* zillah *and city judges shall credit in their public accounts, the whole of the institution fees so remitted to them; and, on inspection of the monthly report of causes decided by the* munsiffs, *shall pay to them (in like manner as payment is ordered to be made to the other native commissioners, by clause seventh, Section* 4, *Regulation VI.* 1797, *and the preceding clause of this regulation) the amount of the institution fee received upon all suits determined by them, on investigation of the merits; or depending before them when adjusted by* razeenamahs *of the parties.*

Clause fourth, Section 3, *Regulation VI.* 1797, *rescinded. Rule for levying and accounting for the institution fee upon suits instituted before native commissioners vested with the powers of* munsiffs.

Zillah and city judges to credit such fees in their accounts; and to pay to munsiffs, *the amount received on suits determined by them, on investigation, or adjusted before them by* razeenamahs.

Fifth. *The rule contained in the foregoing clause is not meant to be applied to any suits determined or adjusted before the receipt of this regulation; but is to be held applicable to all suits depending before the native commissioners vested with the powers of*

Operation of above rule to commence with respect to suits depending before the munsiffs *when this*

munsiff, *when this regulation may be received by them ; and they are accordingly to include the institution fees received upon all such depending suits in the first statement to be transmitted by them.*

regulation may be received by them.

Sixth. *By clause second, Section* 10, *Regulation XL.* 1793, *all persons are declared at liberty to submit suits (within the limited amount of fifty rupees) to the arbitration of the native commissioners appointed under that regulation in their capacity of arbitrators; without any previous application to the court of* dewanny adawlut; *but no provision has been made by any regulation for the demand or receipt of any institution fee in such cases: though by clause seventh, Section* 4, *Regulation VI.* 1797, *it is provided that the fees which may be collected under that section on suits instituted in the* zillah *and city courts, and referred to the native commissioners in their capacities of referees or arbitrators, shall be paid by the courts to the commissioner by whom the suits may be determined or before whom they may be depending, in the event of the parties adjusting them by* razeenamahs. *It is therefore hereby declared, that whenever a suit may be submitted by the parties to the arbitration and decision of a native commissioner, in conformity to Section* 10, *Regulation XL.* 1793, *without a previous application to the court of* dewanny adawlut, *the commissioner (unless he shall consent to arbitrate the cause so submitted to him without receiving any compensation, which in that case, is to be noted on the back of the petition of plaint, under the commissioner's signature,) is authorized to levy from the plaintiff the same institution fee of one anna in the rupee as the native commissioners vested with the powers of* munsiff *are authorized to levy by Section* 3, *Regulation VI.* 1797, *and under the provisions contained in clauses first, second, and third, of that section. In all cases wherein the institution fee may be so levied by a native commissioner in his capacity of arbitrator, he shall account for and remit the same to the* zillah *or city court; and shall receive from that court the amount of the fee paid upon all suits determined by him on investigation of the merits, or depending before him when adjusted by* razeenamahs *of the parties, in like manner as is directed by clause fourth of this section, with respect to fees levied by the* munsiffs.

Explanation of institution fee, to be paid on suits submitted to the arbitration of native commissioners in their capacity of arbitrators.

The fee, when levied in such cases, to be accounted for and paid to the commissioner by whom the suit may be determined, or before whom it may be adjusted; as provided with respect to fees levied by the munsiffs.

XII. First. *Such part of clause sixth, Section* 5, *Regulation XL.* 1793, *as respects the selection of native commissioners to be vested with the powers of* munsiff, *and the jurisdiction of commissioners empowered to act as* munsiffs, *is hereby rescinded. Any* sunnuds *which may have been granted to the commissioners specified in the above clause, empowering them to act as* munsiffs, *shall be recalled by the* zillah *judges on their receipt of this regulation; and new* sunnuds *shall be issued to them according to the form prescribed in Section* 6, *Regulation XL.* 1793; *authorizing them to act as referees and arbitrators only: or, if it be thought proper by the* zillah *judges, and by the court of Sudder Dewanny Adawlut, to reinvest any of such commissioners with the powers of* munsiff *under the provisions contained in this regulation, a* sunnud *shall be granted to them according to the form prescribed in Section* 14. *of this regulation.*

Part of clause sixth, Section 5, *Regulation XL.* 1793, *rescinded.*

Sunnuds to munsiffs *issued under above clause to be recalled.*

New sunnuds *to be issued.*

Second. *Any* sunnuds *granted to the commissioners specified in clause seventh, Section* 5, *Regulation XL.* 1793, *empowering such commissioners to act as* munsiffs, *shall also be recalled by the* zillah *judges on receipt of this regulation. The* cauzee *of Calcutta, and the* cauzies *of the stations at which the several* zillah *courts are established, as well as the other commissioners mentioned in that clause, who may be continued as referees and arbitrators, shall receive* sunnuds, *authorizing them to act in these capacities, in conformity to Section* 6, *Regulation XL.* 1793, *and any of the commissioners appointed under the above mentioned clause, whom it may be thought proper to reinvest with the powers of* munsiff *under this regulation, shall receive a* sunnud *according to the form prescribed in Section* 14.

Any sunnuds *to* munsiffs *granted under clause Seventh, Section* 5, *Regulation XL.* 1793, *to be also recalled.*

New sunnuds *to be issued to commissioners mentioned in that clause.*

Third. *Provided, with respect to the native commissioners referred to in both the preceding clauses, that they shall not be entitled to receive a new* sunnud, *empowering them to act as referees and arbitrators, in any instance wherein the court of Sudder Dewanny Adawlut, on the report of the* zillah *judge, or otherwise, may deem it unnecessary or unadvisable to grant the same, under the provisions made by this regulation. It is also hereby declared, that the court of Sudder Dewanny Adawlut, who are already authoriz-*

Proviso respecting issue of new sunnud *under the two preceding clauses.*

Court of Sudder Dewanny Adawlut may, at

all times order the recal of any commissioner's sunnud, *if the continuance of it appear unnecessary or inexpedient.*

oil to remove any commissioner appointed under Regulations XL. 1793, *or XXXI.* 1795, *on sufficient cause proved to the satisfaction of that court, may, at all times, order the recal of any commission granted under the above regulations, or under the present regulation, when the continuance of it may appear to them unnecessary or inexpedient, on the report of the judge of the* zillah *or city in which such commission may have been granted; or, on consideration of any other report, or information.*

Present commissioners empowered to continue to act until new sunnuds *be issued under this regulation; or until the Sudder Dewanny Adawlut direct the discontinuance of their commissions.*

Fourth. *Provided further, that the whole of the present commissioners, whose* sunnuds *may be recalled, under clauses first, and second, of this section, shall, notwithstanding, be empowered to continue to act as referees and arbitrators, under Regulation XL.* 1793, *until new* sunnuds *can be issued to them; or until the court of Sudder Dewanny Adawlut may direct the discontinuance of their commissions, as provided by this regulation. The commissioners now empowered to act as* munsiffs, *shall also continue to act as such, under the provisions contained in Regulation XL.* 1793, *and Section* 11. *of this regulation; until the* munsiffs *authorized by Section* 14. *of the present regulation, shall have been appointed; when, in all instances wherein the former* munsiff *may not be continued, the* zillah *judge shall cause him to deliver over all records and papers relative to depending causes, as well as all papers in his possession relative to causes decided by him in his capacity of* munsiff, *to the new* munsiff, *who may be appointed under this regulation.*

Records and papers to be delivered over to new munsiffs *appointed under this regulation.*

New establishment of munsiffs *to be prepared by* zillah *judges, and submitted to court of Sudder Dewanny Adawlut.*

XIII. The judges of the several zillahs, *on receipt of this regulation, are to prepare and submit to the court of Sudder Dewanny Adawlut a new establishment of* munsiffs *for their respective jurisdictions, under the provisions contained in the following section.*

By whom to be nominated and approved.

Sunnuds of appointment to be issued to them.

And not to be removed without sufficient cause, proved to the satisfaction of the Sudder Dewanny Adawlut; or unless the commission be recalled by that court.

Rule for the selection of persons to act as munsiffs.

XIV. First. *The native commissioners to be hereafter vested with the powers of* munsiff, *in addition to those of referee and arbitrator, shall be nominated by the* zillah *judges, and approved by the court of Sudder Dewanny Adawlut; shall receive* sunnuds *of appointment under the seal and signature of the judge in whose jurisdiction they may be appointed to act; and shall not be removed from office without sufficient cause proved to the satisfaction of the Sudder Dewanny Adawlut; (unless the commission be recalled under clause third, Section* 12. *of this regulation;) as provided with respect to the present native commissioners by Section* 3, *Regulation XL.* 1793.

Report to be made to Sudder Dewanny Adawlut respecting any person proposed to be vested with the powers of munsiff.

Second. *The* zillah *judges are not restricted to any particular descriptions of persons in the selection of commissioners to act as* munsiffs, *under this section; but are required to be particularly careful in selecting persons of good character, and sufficient ability, as well as duly qualified by their education and past employments to discharge satisfactorily the trust reposed in them. The judges are in every instance to report to the Sudder Dewanny Adawlut the information they may have obtained on these points, respecting any person proposed by them to be vested with the powers of* munsiff.

Oath to be taken by munsiffs.

Third. *Every commissioner appointed to act as* munsiff, *previously to entering upon the execution of the duties of his office, shall take and subscribe, before the judge of the* zillah *in which he may be appointed to act, the oath prescribed in Section* 7, *Regulation XL.* 1793; *and shall be liable to prosecution in the* dewanny adawlut *for corruption in the discharge of his trust, or for any other oppressive or unwarranted act in his public capacity, as provided by Section* 8. *of that regulation.*

Liable to prosecution for corruption or other oppressive or unwarranted acts, as provided by Sect. 8, *Regulation XL.* 1793.

Local jurisdiction of munsiffs; *and where their* cutcherrees *shall be held.*

Fourth. *The general local jurisdiction of a* munsiff *in the provinces of Bengal, Behar, and Orissa, shall be the same with that of the police jurisdiction in which he may be empowered to officiate; and his* cutcherree *shall be held at the principal town,* bazar, *or* gunje *within such jurisdiction, wherever it may be nearly central to the police jurisdiction, as required by Section* 4, *Regulation XXII.* 1793. *Where there may be no town,* bazar, *or* gunje *in a central part of the jurisdiction, the* zillah *judge shall determine (subject to the approbation of the Sudder Dewanny Adawlut) at what place within the* munsiff's *jurisdiction, his* cutcherree *shall be held; as may be most convenient for the inhabitants. The judge is also to report to the court of Sudder Dewanny Adawlut, whenever it may appear to him advisable to appoint more than one* munsiff *within a police jurisdiction; or to include more than one police jurisdiction within that of a* munsiff; *and the court of Sudder Dewanny Adawlut are authorized to fix the limits*

of the munsiff's *jurisdiction, on consideration of such reports as may appear to them expedient.*

Number and local jurisdiction of munsiffs *how to be regulated in the provinces of Benares.*

Fifth. *In the province of Benares, where the police jurisdictions under the* tehsildars *are of unequal extent, the number and local jurisdiction of the* munsiffs *are to be proposed by the* zillah *judges, and fixed by the court of Sudder Dewanny Adawlut, as may appear to them proper; and consistent with clause second, Section 5, Regulation XL. 1793, directing the number of commissioners, where local circumstances will admit, to be such that a defendant may not be obliged to proceed a greater distance than five* coss *to answer any suit preferred against him.*

No munsiff *to be appointed within five* coss *of the station where the* zillah *court is held, without the special sanction of the Sudder Dewanny Adawlut.*

Sixth. *No* munsiff *shall be appointed within five* coss *of the station where the* zillah *court is held, unless the* zillah *judge shall for any particular reason, consider it advisable to appoint a* munsiff *within such distance; in which case he is to report the same for the determination of the Sudder Dewanny Adawlut, who are empowered to authorize such appointment, if it appear to them expedient.*

What suits may be received, tried, and determined by the munsiffs *appointed under this regulation.*

Seventh. *The commissioners who may be vested with the powers of* munsiff *under this regulation, are empowered to receive, try, and determine all suits preferred to them against any native inhabitant of their respective jurisdictions, for money or other personal property not exceeding in amount or value the sum of fifty sicca rupees; provided the claim be really for money due, or property belonging to the plaintiff, or for the value of such property; and be not for damages on account of alleged personal injuries, or for personal damages, of whatever nature; no claim for which shall be heard by any commissioner, without an order of reference to him from the* zillah dewanny adawlut. *Any wilful violation of this rule, proved to the satisfaction of the Sudder Dewanny Adawlut, shall subject the commissioner infringing it to immediate dismission from his office; and to such fine to Government as that court may judge it proper to impose upon him, on consideration of all the circumstances of the case.*

No claim for personal damages to be heard without reference from the zillah *court.*

Penalty for wilful violation of this rule.

Munsiffs to try causes themselves in open court.

Eighth. *Commissioners empowered to act as* munsiffs *are to try themselves, in a public* cutcherree *or court-room, the suits cognizable by them under the preceding clause; and are not to allow their officers, servants, or dependants, or any other person to interfere therein. In receiving, trying, and determining all such suits, they shall be guided by the rules prescribed in Sections* 11, 12, 13, *and* 14, *Regulation XL.* 1793; *and by the whole of the provisions in that regulation, which have reference to the office of* munsiff, *and are not repealed or altered by the present regulation. They shall also be guided by any other regulation having reference to their office, or to the suits declared cognizable by them; and in cases for which no express provision may have been made, in the trial of such suits, they shall observe, as nearly as may be practicable, the rules prescribed for the administration of civil justice in the courts of* dewanny adawlut.

Rules to be observed by them in receiving, trying, and determining all suits cognizable by them.

Commissioners appointed to act as munsiffs *under this regulation, also empowered to act as referees and arbitrators under Regulations XL.* 1793, *XXXI.* 1795, *and XVIII.* 1797.

Ninth. *The commissioners appointed to act as* munsiffs *under this regulation shall also be empowered to act as referees and arbitrators, under Regulations XL.* 1793, *XXXI.* 1795, *and XVIII.* 1797, *and Sections* 15, 16, 17, 18, *and* 19, *Regulation XL.* 1793, *relative to the reports of causes decided by, and depending before, the native commissioners appointed under that regulation; as well as Sections* 20, 21, 22, 23, *and* 24, *respecting appeals from the decision of such commissioners; and Section* 25, *authorizing the judges of the* zillah *courts to bring before them, or their registers, any causes depending before the native commissioners appointed under that regulation, shall be considered equally applicable to all suits decided by, or depending before any native commissioner vested with the powers of* munsiff, *under the present regulation.*

Provisions in Regulation XL. 1793, *declared applicable to suits depending before, or decided by* munsiffs, *under the present regulation.*

Form of sunnud *to be granted to commissioners empowered to act as* munsiffs, *referees, and arbitrators, under this regulation.*

Tenth. *Commissioners who may be empowered to act as* munsiffs, *referees, and arbitrators, under this regulation, shall receive a* sunnud *under the seal and signature of the judge of the* zillah *in which they may be appointed to officiate, in the following form:*

"*I A. B. judge of the* dewanny adawlut *of the* zillah *of* ———, *in virtue of the powers vested in me by Regulation XLIX.* 1803, *appoint you* ——— *commissioner, with the powers of* munsiff, *referee, and arbitrator, for trying and deciding suits*

for money, or other personal property not exceeding fifty sicca rupees; and not being for damages on account of alleged personal injuries, or other personal damages; which may be preferred to you, in your capacity of munsiff, *against any native inhabitant within the limits of your jurisdiction, as described at the foot of this* sunnud. *Also for trying and deciding all suits for money or other personal property, not exceeding fifty sicca rupees, which may be referred to you in your capacity of referee, from the* dewanny adawlut *of this* zillah; *or which may be submitted to your arbitration, by the parties, in your capacity of arbitrator. You are to hold your* cutcherree *at* ————, *and are to fix up this commission in some conspicuous part of the* cutcherree; *in which all suits are to be heard and determined by you. You are to try and decide all suits cognizable by you, and to exercise the authority vested in you, agreeably to the rules prescribed in the regulation above mentioned, and the previous regulations therein referred to; or such other regulations as may be hereafter enacted by his excellency the Governor General in Council, and printed and published in conformity to Regulation XLI.* 1793. *You are to exercise the powers of commissioner herein vested in you, until your commission shall be recalled by order of the court of Sudder Dewanny Adawlut."*

Provisions in the three preceding sections applicable to any commissioners empowered to act as munsiffs *within the jurisdictions of the judges of the cities of Benares and Patna.*

Report to be made by the judges of the above cities to the Sudder Dewanny Adawlut.

XV. A part of the former zillah *of Ghazeepore having been annexed to the jurisdiction of the city of Benares, and part of* zillah *Behar having been annexed to the jurisdiction of the city of Patna, the provisions in the three preceding sections are to be considered applicable to any native commissioners who may have been vested with the powers of* munsiff *within the jurisdictions of the judges of the cities above mentioned; or whom it may be hereafter judged expedient to empower to act as* munsiffs *within these jurisdictions. The judges of the cities of Benares and Patna are accordingly to transmit to the court of Sudder Dewanny Adawlut a report of the commissioners now officiating as* munsiffs, *within their respective jurisdictions; with any alterations that may be requisite under the provisions contained in this regulation.*

Clause fifth, Section 9, *Regulation XL.* 1793, *repealed.*

No person to plead or act as a vakeel *before any native commissioner (not being a head commissioner) unless he be a relation, servant, or dependant, of the person for whom he is appointed to act; or unless he shall have received a* sunnud *under the following clause.*

XVI. First. *The general liberty given by clause fifth, Section* 9, *Regulation XL.* 1793, *to employ any persons as* vakeels *before the native commissioners appointed under that regulation, having been abused by persons of bad character, who frequent the* cutcherrees *of the commissioners for the purpose of being employed as* vakeels, *and promote litigation from motives of self-interest, the above-mentioned clause is repealed; and no person shall hereafter be allowed to plead, or act, as a* vakeel *before any native commissioner, whether officiating as* munsiff, *referee, or arbitrator, (not being a head native commissioner appointed under this regulation,) unless he be a relation, servant, or dependant, of the person for whom he may be appointed to act; or unless he shall have received a* sunnud *from the judge of the* zillah *or city in which he may be employed, under the following clause.*

Zillah and city judges authorized to appoint vakeels, if requisite, for the pleading of causes before the native commissioners within their jurisdictions; and to grant them sunnuds *for such appointments; to be retained as long as necessary, on condition of good behaviour.*

Second. *If, in any instance, it appear necessary to the judges of the* zillah *and city courts, that* vakeels *be appointed to attend the pleading of causes before any of the native commissioners (not being head commissioners) within their respective jurisdictions, they are authorized to appoint a sufficient number of persons of good character, and duly qualified, to act as* vakeels, *in the* cutcherrees *of the commissioners where they may be required; and to grant them* sunnuds *under their official seals and signatures, declaring them entitled to retain such appointment, so long as the same may be necessary, on condition of their good behaviour.*

Vakeels so appointed to be sworn; and liable to prosecution for all breaches of trust, fraud, or misconduct.

Not to be removed without proof of such misconduct, or incapacity or profligacy, to the satisfaction of the zillah *or city judge. Or unless the judge consider it unnecessary or inexpedient to continue the number of* vakeels *appointed.*

Third. *The* vakeels *so appointed shall be sworn to a faithful discharge of their duties; and shall be liable to prosecution in the* zillah *and city courts for all breaches of trust, fraud, or misconduct, in the pleading or management of suits committed to them, or with respect to any act done by them in their capacity of* vakeels. *They shall not however be removed from their offices without proof of such misconduct, or of incapacity, or of gross profligacy, or misbehaviour in their private conduct, to the satisfaction of the judge of the* zillah *or city in which they may have been appointed: or unless the judge shall consider it unnecessary or inexpedient in any instance, to continue the number of* vakeels *appointed: in which case, he is at all times authorized to recal and cancel the* sunnuds *granted to them.*

Fourth. *The* vakeels *who may be appointed under this section, are left to settle with their constituents, the fees to be paid to them for the pleading of causes, and for all other acts that may be performed by them, and nothing in this regulation shall entitle any* vakeel, *so appointed, to demand any fee or compensation beyond what may have been previously adjusted, and voluntarily agreed to by his constituent, or in his behalf. The fees so agreed to shall be specified in the* vakalutnamah *by which the* vakeel *is empowered to act; and the commissioner may include the same, or any part thereof, in his judgment against the party cast, if it appear to him equitable so to do; as provided with respect to other costs of suit by clause twelfth, Section* 9, *Regulation XL.* 1793.

What fees to be received by the vakeels *so appointed.*

To be specified in their vakalutnamahs.

And may be included in the commissioner's judgment, with other costs of suit.

Fifth. *After the receipt of this regulation, all native commissioners appointed to act as* munsiffs, *referees, or arbitrators, are to be careful in not allowing any persons to frequent, or act in their respective* cutcherrees *as* vakeels, *who may not be relations, servants, or dependants of the parties in causes before them; or may not have received* sunnuds *to act as* vakeels, *from the judge of the* zillah *or city in which they may be employed. Any breach of this rule, proved to the satisfaction of the Sudder Dewanny Adawlut, will render the commissioner infringing the same, liable to immediate dismission from office, besides such fine to Government as the case may appear to require.*

Commissioners, after receipt of this regulation, not to allow any other persons than those specified to frequent, or act in their cutcherrees *as* vakeels.

Penalty for any breach of this rule.

XVII. First. *The defendants in petty causes, instituted before the native commissioners in their capacity of* munsiff, *being often harassed by* peons *deputed to take from them the security for appearance required by Section* 11, *Regulation XL.* 1793; *as well as put to expense in providing such security; which in suits for a very small amount can seldom be requisite; it is hereby enacted, that security shall not be required in future for the appearance of the defendant in any suit instituted before a native commissioner, for money or property, not exceeding in amount or value the sum of ten sicca rupees; unless the commissioner shall receive certain information, to be recorded in that case on his proceedings, that the defendant is about to abscond; on proof of which, he is authorized to require personal security; and, in the event of its not being given, to attach any property belonging to the defendant, not exceeding the amount or value sued for, in conformity to the regulation and section above mentioned.*

Restriction against requiring security for the appearance of defendants in suits instituted before the native commissioners for money or property not exceeding ten rupees.

Unless it be proved to the commissioner, that the defendant is about to abscond.

Second. *The foregoing clause shall be considered equally applicable to the defendants in suits referred to native commissioners in their capacity of* ameens, *or* referees; *and, under the limitation contained in it, commissioners acting in that capacity are empowered to summon and take personal security from the defendants in causes referred to them, in like manner as the* munsiffs *are so empowered by Section* 11, *Regulation XL.* 1793; *whenever the judges of the* zillah *and city courts may deem it more convenient for the defendant to leave the commissioner to take such security, instead of causing it to be taken by a process from the* zillah *or city court, in conformity to clause sixth, Section* 9, *Regulation XL.* 1793.

Foregoing clause extended to defendants in suits referred to native commissioners in their capacity of ameens. *And such commissioners empowered to summon, and take security from defendants, in like manner as the* munsiffs *are authorized; when the judges may deem the same more convenient than the issue of process under clause VI. Section* 9, *Regulation XL.* 1793.

XVIII. First. *Commissioners empowered to act as* munsiffs *under Regulation XL.* 1793, *were authorized by clause tenth, Section* 9, *of that regulation, to summon as witnesses any persons declared subject to their jurisdiction in that capacity; and in the event of their not obeying the summons, to attach any personal property belonging to them, not exceeding the amount or value sued for, until they should attend as required. The same power is vested in the commissioners who may be appointed as* munsiffs *under this regulation, with respect to all persons declared subject to their jurisdiction by clause seventh, Section* 14, *and not being women, whose rank or cast may be such as to render it improper, according to the manners and customs of the country, to require their appearance in public. The evidence of such women, when required, is to be taken in the mode prescribed by Section* 6, *Regulation IV.* 1793.

Power of munsiffs *to summon witnesses.*

Second. *Commissioners acting in the capacity of* referees *and arbitrators are also authorized to summon as witnesses, in causes referred to them, or submitted to their arbitration, any persons (not being women of the description above noticed) who shall be resident within the estate, farm, or other* mohaul, *in virtue of which they may have been appointed to act as commissioners; and in the event of their non-attendance, to attach any*

Power of referees and arbitrators to summon witnesses.

personal property belonging to them, not exceeding the amount or value sued for, until they shall attend as required.

Commissioners of all descriptions how to obtain the evidence of persons not subject to their jurisdiction.

Third. *If any commissioner, whether acting as* munsiff, *referee, or arbitrator, shall require the evidence of a person not subject to his jurisdiction, as specified in two preceding clauses; and such person shall not attend at the requisition of the parties, or on notice given him by the commissioner, application to cause his attendance, or his deposition to be taken, must be made to the* zillah *or city court by the commissioner, or by the party desiring the evidence of such person, or his* vakeel, *in conformity to clause tenth, Section 9, Regulation XL.* 1793.

Provisions in the two foregoing sections not applicable to head commissioners.

Clauses sixth and tenth, Section 9, Regulation XL. 1793, *to be applied to all defendants and witnesses in causes referred to head commissioners.*

And all process which may be necessary relative to such causes to be issued under the seal of the zillah *or city court, and the signature of the judge, register, or assistant.*

XIX. The provisions in the two foregoing sections are not meant to be applied to the head native commissioners who may be appointed under this regulation, or to the defendants and witnesses in causes referred to them. Clauses sixth and tenth, Section 9, Regulation XL. 1793, *shall be held applicable to all defendants and witnesses in such causes; and the usual process for summoning and taking security from the defendant, as well as for causing the attendance of any witnesses who may not attend before the head commissioner at the requisition of the parties, in common with all other process which it may be necessary to issue relative to any cause referred to, or decided by, a head native commissioner appointed under this regulation, shall be issued under the seal of the* zillah *or city court to which such commissioner may be attached, and under the official signature of the judge, register, or assistant to the register of such court.*

Judges of zillah *and city courts, after signing the order for referring a cause to a native commissioner, may authorize and direct their registers to sign any other necessary process in such cause.*

Also generally empowered to employ their registers and assistants in signing and issuing any process of court not specially required by any regulation to be signed by the judge.

XX. Section 20, Regulation IV.* 1793, *requiring that all orders and process of the* zillah *and city courts be sealed with the seal of the court, and signed by the judge, it has been doubted whether the judges can authorize their registers to sign the process of court for summoning witnesses to appear before the native commissioners under the provisions contained in Regulation XL.* 1793; *or to sign any judicial process, except in cases referred to the registers under Regulation VIII.* 1794. *It is therefore explained, that the judges of the* zillah *and city courts, after signing the order for referring a cause to any native commissioner, as required by clause fourth, Section 9, Regulation XL.* 1793, *may authorize and direct their registers to sign any other necessary process in causes so referred. They are also generally empowered to employ their registers and assistants in signing and issuing any process of court, which they may judge proper to be signed and issued by them, and to which the signature of the judge may not be specially required by any regulation.*

Judges of zillah *and city courts further authorized to employ their registers and assistants, or any of their principal native officers, in taking the depositions of witnesses.*

Provisions under which the depositions are to be so taken.

XXI. First. *The judges of the* zillah *and city courts are further authorized to employ their registers and assistants, or any of their principal native officers, in taking down the depositions of witnesses whom they may not have time to examine* vivâ voce *themselves. Provided that such depositions be taken in open court, in the presence of the parties, or their authorized pleaders, whose attestations shall be subscribed to all depositions so taken, in testimony of their having been present; and if any dispute or question shall arise in the course of taking the evidence of a witness so examined, the judge shall immediately, or as soon as practicable, hear and inquire into the same, in the presence of the witness, and of the parties or their pleaders, and shall pass such order thereupon as may appear to him proper.*

The judges may likewise permit their registers to cause the depositions of witnesses, in causes referred to them, to be taken before their assistants, or any principal native officer, in the mode, and under the restrictions specified in this section.

Further restriction in such cases.

Second. *The judges of the* zillah *and city courts may likewise permit their registers to cause the depositions of witnesses, in causes referred to them, to be taken before their assistants, or any principal native officer, in the mode and under the restrictions specified in this section; whenever, from the number of causes depending before their registers, it may appear to them indispensably necessary for the speedy determination of such causes. But this power shall not be exercised by any register without the permission of the judge, communicated to him by a written precept; which shall, at all times, be revocable, when the judge may consider it no longer necessary to continue to his register the permission thereby granted.*

All appeals from decisions of the native commissioners, appointed under this and former regu-

XXII. First. *Under the provisions contained in this regulation, the judges of the* zillah *and city courts will in future hear all appeals from decisions of the native commissioners appointed under Regulations XL.* 1793, *XXXI.* 1795, *and XVIII.* 1797;

Sect. 20 to 27, rescinded by Sec. 2, Reg. XXIV. 1814.

as well as all appeals from decisions of the head native commissioners and munsiffs, *who may be appointed under the present regulation; and the following additional rules are enacted respecting all such appeals.*

lations, to be heard by the judges of the zillah *and city courts.*

Additional rules respecting such appeals.

Second. *In addition to clause ninth, Section* 9, *Regulation XL.* 1793, *whereby the judge is empowered to direct his register, or the commissioner by whom a cause may have been dismissed on non-attendance of the plaintiff, to try the merits of such cause, or to try the same himself; and to direct a trial* de novo, *either by the register or commissioner, of any cause tried by a commissioner* ex parte, *without the attendance of the defendant; the judge is hereby authorized, in all cases where a suit tried in the first instance by a native commissioner may appear to have been insufficiently investigated, and to require a further examination of evidence, or a trial* de novo; *either to refer such cause back to the commissioner by whom it was originally tried; or to any other commissioner competent to try the same, under the regulations; or to his register, with instructions to take and transmit the further evidence required; or, after taking further evidence, to pass a new decision in the cause, or to try and determine the cause* de novo; *subject, in either of the two latter cases, to a further appeal to the judge, against such second decision; without any additional charge for the institution fee, if this fee shall have been already paid upon the original appeal.*

In what manner the judge may proceed, when a suit tried by a native commissioner shall appear to have been insufficiently investigated; and to require a further examination of evidence; or a trial de novo.

Third. *By Section* 4, *Regulation XXXVI.* 1795, *the decrees of the* zillah *and city judges, in appeals from decisions for money or other personal property, passed by the native commissioners appointed under Regulations XL.* 1793, *and XXXI.* 1795, *are declared final. The decrees of the judges of the* zillah *and city courts are also hereby declared final, in appeals from decisions passed by the head native commissioners who may be appointed under this regulation, whether for personal or real property, not exceeding the limitation of causes referrible to such head native commissioners; as well as in appeals from decisions of the commissioners of land suits in* zillah *Chittagong, in causes referrible to such commissioners under Regulation XVIII.* 1797; *provided, with respect to all decrees of the* zillah *and city judges, in the cases herein mentioned, that it shall be competent to the provincial courts of appeal to admit a special appeal therefrom, if in any particular case it shall appear to them proper so to do, under the discretion vested in them by Section* 24. *of this regulation.*

Decrees of zillah *and city judges declared final in all appeals from decisions passed by the native commissioners appointed under Regulations XL.* 1793, *XXXI.* 1795, *XVIII.* 1797, *and the present regulation; in suits referrible to such commissioners.*

Provided, with respect to all such appeals, that the provincial courts may admit a special appeal therefrom under Section 24. *of this regulation.*

XXIII. Under the authority vested in the judges of the zillah *and city courts to refer all causes for personal property not exceeding fifty rupees to any of the native commissioners appointed under Regulations XL.* 1793, *and XXXI.* 1795; *as well as to refer all suits for personal property not exceeding one hundred rupees to their registers, or to the head native commissioners who may be appointed under this regulation; it is probable that no causes of this description will be tried by themselves in the first instance, unless, from the nature of the suit, as involving some general question, or otherwise, it should appear to be of importance; although the sum directly at issue be of inconsiderable amount, and in such cases it would be desirable that an appeal from the determination of the judge should be open to the provincial court. Such part of Section* 11, *Regulation VIII.* 1794, *as declares the decision of the judge to be final in suits tried by himself, in the first instance, for money or other personal property, not exceeding twenty-five sicca rupees, is therefore hereby rescinded; and after the receipt of this regulation by the judges of the several* zillah *and city courts, an appeal shall lie from their decisions to the provincial courts of appeal, under the prescribed rules of appeal, in all causes whatever that may be tried by the judges of the* zillah *and city courts in the first instance, viz. without a previous trial and decision by their registers, or by any of the native commissioners.*

Part of Section 11, *Regulation VIII.* 1794, *rescinded.*

After receipt of this regulation, an appeal to lie to the provincial courts from all decisions of the zillah *and city judges in causes tried by them in the first instance, viz. without a previous trial by their registers or any native commissioner.*

XXIV. First. *Suits tried in the first instance by the native commissioners, or by the registers of the* zillah *and city courts, and heard in appeal by the judges of those courts, may also occasionally involve questions of a general and important nature; particularly in causes between landholders or farmers of land, and the* ryots, *for arrears or exactions of rent, wherein the rights of the landlord and tenant may be at issue; and an erroneous decision not revocable by appeal, might be of serious ill consequence. It is therefore*

Provincial courts empowered to admit a special appeal in all cases wherein a regular appeal may not lie to them from the decrees of the zillah *and city judges; if such decrees appear erroneous*

or unjust; or if the cause shall appear of sufficient importance to merit a further investigation in appeal.

fore hereby provided, that in all cases wherein a regular appeal may not lie to the provincial courts of appeal from the decrees of the judges of the zillah *and city courts, under the present or any other regulation, it shall be competent to the provincial court to admit a special appeal, (on performance of the general conditions of appeals,) if on the face of the decree of the* zillah *or city judge, or from any information before the provincial court, it shall appear to them erroneous or unjust; or if, from the nature of the cause, as stated in the decree, or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal.*

Discretion vested in provincial courts by above clause to be used with caution.

Not to entitle any party to demand an appeal, of right;

Nor preclude the judges of the zillah *and city courts from a revision of their own judgments, if deemed necessary, under Section* 2, *Regulation II.* 1798; *and the review be applied for before the admission of a special appeal by the provincial court.*

Second. *The discretionary authority vested in the provincial courts by the above clause, for the special purpose therein stated, is to be used by them with caution; and shall not be considered to entitle any party to demand, of right, an appeal to the provincial court, in cases wherein the judgments of the* zillah *and city courts are provisionally made final; nor shall it preclude the judges of these courts from proceeding as authorized by Section* 2, *Regulation II.* 1798, *for a revision of their own judgments in such cases, if it appear to them necessary, and the review be applied for at any time before an appeal shall have been admitted by the provincial court of appeal. The petition for a review in such cases will, of course, be presented to the* zillah *or city judge, in conformity to Section* 2, *Regulation II.* 1798; *but any petitions for a special appeal to a provincial court, under the preceding clause of this section, are to be presented to the provincial court of appeal, with a copy of the decree of the* zillah *or city court, and with the institution fee and security required in other cases of appeal.*

Petitions for a special appeal under this section to be presented to the provincial courts, with a copy of the decree appealed from, and the requisite institution fee and security.

XXV. The limitation of appeals to the provincial courts of appeal from the decisions of the zillah *and city courts, fixed by Sections* 8. *and* 22. *of this regulation, shall not be understood to affect any appeals already preferred to the provincial courts, or which may be preferred to them against decisions of the* zillah *and city judges passed before the promulgation of this regulation, and appealable to the provincial courts under the rules now in force.*

Sections 8. *and* 22. *of this regulation not to affect any appeals already preferred to the provincial court, or which may be preferred to them before the promulgation of this regulation.*

XXVI. First. *Nor shall any thing in this regulation be considered to preclude an appeal to the provincial courts of appeal under Section* 9, *Regulation II.* 1801, *in all cases wherein the appeal open to the judges of the* zillah *and city courts, from the decisions passed by the registers, or by any of the native commissioners, may be refused by the* zillah *and city courts, on any ground of delay, informality, or other default in preferring it; or after admission, may be dismissed on the ground of some default, without investigation of the merits of the cause.*

Nothing in this regulation to preclude an appeal to the provincial courts under Section 9, *Regulation II.* 1801; *when the appeal open to the* zillah *and city courts, from decisions of the registers and native commissioners, may be refused or dismissed on the ground of some default.*

Second. *In addition to the provisions for such appeals, and for similar appeals to the court of Sudder Dewanny Adawlut, contained in Sections* 8. *and* 9, *Regulation II.* 1801, *as well as in modification of such part of these sections as requires that the appeals therein mentioned be preferred in conformity to the rules prescribed with regard to other appeals; it is hereby further provided, that, as the appeal in such cases is not upon the merits of the cause, but merely on the default which is made the ground for rejecting or dismissing the previous appeal, and which must appear on the proceedings of the court by which such appeal may have been rejected or dismissed; it shall not be requisite to hold the regular pleadings upon such appeals; or to hold any other than summary proceedings thereupon; such as may appear sufficient, on consideration of the stated ground for rejecting or dismissing the previous appeal.*

Additional provisions for such appeals, and for similar appeals to the Sudder Dewanny Adawlut under Section 8, *Regulation II.* 1801.

Regular pleadings not requisite on such appeals, nor any others than summary proceedings.

Third. *No institution fee shall be levied upon such appeals; but if, on investigation, they are found groundless and litigious, the appellant shall be invariably punished by a fine proportionate to his condition and the circumstances of the case, as directed by Section* 8, *Regulation II.* 1801.

No institution fee to be levied upon such appeals; but if found groundless and litigious, the appellant to be invariably fined, as directed by Section 8, *Regulation II.* 1801.

Fourth. *The respondent in such cases shall receive notice of the appeal, but shall not be required to attend upon it, unless in any particular instance his attendance be found necessary. He shall at all times, however, have the option of attending the proceedings held upon such appeals; and if the appellant or respondent appoint a pleader, the court may award to him such fee as it shall consider a sufficient compensation for his labour; under the limitation and provisions contained in Section* 14, *Regulation V.* 1798.

Respondents to receive notice of such appeals,

Fifth

Fifth. *No security shall be required from appellants or respondents in the appeals referred to in this section; except for staying the execution of decrees; the security to be given for which shall be the same as is required in other appeals.*

Shall however always have the option of attending the proceedings held on them.

And if either party appoint a pleader, the court may award a sufficient compensation to him under Section 14, *Regulation V.* 1798.

No security to be required from appellants or respondents in the appeals referred to in this section; except for staying the execution of decrees.

XXVII. By Section 12, *Regulation XVII.* 1793, *(extended to Benares by Regulation XVIII.* 1795,*) the judges of the* zillah *and city courts are required to transmit to the provincial courts, and court of Sudder Dewanny Adawlut, on the* 1st *January and* 1st *July of each year, a report of all causes remaining undecided in their respective courts according to the form therein prescribed; and by Section* 16. *of the same regulation, the provincial courts of appeal are required to transmit, at the same periods, to the Sudder Dewanny Adawlut, a report of original causes or appeals remaining undecided in their courts respectively. The* zillah, *city, and provincial courts have been already permitted by the Sudder Dewanny Adawlut to send the details of these reports in the Persian language; with an English abstract, as required by Regulation XXXVII.* 1795; *and they are now authorized to send the abstract only (according to such form as has been, or may be, prescribed by the court of Sudder Dewanny Adawlut) on the* 1st *July of each year; but are to be careful in transmitting to the court of Sudder Dewanny Adawlut, as soon as possible after the* 1st *January of each year, a detailed report, as heretofore, made up to that period. It is left to the discretion of the provincial courts of appeal to require from the* zillah *and city judges within their respective divisions, a detailed, or abstract, report of depending causes, at the same period, as they may find occasion.*

Modification of rules contained in Sections 12. *&* 16, *Regulation XVIII.* 1793, *for transmission of half yearly reports of causes remaining undecided in the* zillah *and city courts, and in the provincial courts of appeal.*

English abstract only required to be transmitted on the 1st *July of each year.*

A detailed Persian report and English abstract to be transmitted as heretofore to the court of Sudder Dewanny Adawlut on the 1st *January.*

And provincial courts may require from the zillah *and city judges, at the same period, either a detailed or abstract report as they find occasion.*

A. D. 1805. REGULATION II.

A REGULATION *to explain the existing Limitations of Time for the Cognizance of Suits in the Civil Courts of Justice; to provide further Limitations with respect to certain Suits, regular and summary; and to make other Provisions, relative to the Admission and Trial of original Suits, and of Appeals.*—PASSED *by the Governor General in Council, on the* 18*th February* 1805; *corresponding with the* 8*th Phaugun* 1211 *Bengal era; the* 5*th Phaugun* 1212 *Fussily; the* 8*th Phaugun* 1212 *Willaity; the* 5*th Phaugun* 1861 *Sumbut; and the* 17*th Zekaad* 1219 *Higeree.*

Preamble.

BY Section 14, Regulation III. 1793, the *zillah* and city courts are prohibited from "hearing, trying, or determining the merits of any suit whatever against any person or persons, if the cause of action shall have arisen previous to the 12th August 1765," (the date of the Company's accession to the *dewanny* of the provinces of Bengal, Behar, and Orissa;) "or any suit whatever, against any person or persons, if the cause of action shall have arisen twelve years before any suit shall have been commenced on account of it; unless the complainant can shew, by clear and positive proof, that he had demanded the money or matter in question, and that the defendant had admitted the truth of the demand, or promised to pay the money," (within the last twelve years, so as to constitute a new ground of action within the limited period,) "or that he directly preferred his claim within twelve years" (after the origin of the cause of action) "for the matters in dispute, to a court of competent jurisdiction to try the demand, and shall assign satisfactory reasons to the court why he did not proceed in the suit; or shall prove, that either from minority or other good and sufficient cause he had been precluded from obtaining redress:" the same prohibitions have been extended to the province of Benares by Section 8, Regulation VII. 1795, with certain exceptions specified in that section; and with the substitution of the date of 1st July 1775, (being the date of the cession of that province to the Company;) beyond which no retrospective claims are judicially cognizable therein, except those of dispossessed *zemindars*, in certain cases, under a provision made with the concurrence of the Rajah of Benares, as stated in clause fifth of Section 3, Regulation I. 1795. By clause first of Section 18, Regulation II. 1803, the courts of *adawlut*, which have been recently established in the provinces ceded by the Nawaub Vizier to the Company on the 10th November 1801, "are prohibited from hearing, trying, or determining any civil suit whatever, if the cause of action shall have arisen at a period, being twelve years antecedent to the date on which the petition for the institution of such suit shall be presented to the court." But this rule, which is explained and restricted by clause second of the above section, is to remain in force only until the period of twelve years shall have elapsed from the date of the cession of the said provinces, after which, by clause third of the section abovementioned, the same rules of limitation have been prescribed for the ceded provinces, as in the other provinces; with the substitution of the 10th day of November 1801, as the limit of judicial cognizance in the ceded territory, after twelve years from that date. The period of twelve years, adopted in all these provisions, appears to have been established when the administration of civil justice was first

committed to the servants of the Company, on the institution of courts of *dewanny adawlut* in the year 1772: and in the plan for the administration of justice then proposed by the committee of circuit, (which was adopted by Government on the 21st August 1772,) it is remarked, that "by the Mahomedan law, all claims which have laid dormant for twelve years, whether for land or money, are invalid: this also is the law of the Hindoos, and the legal practice of the country." This observation does not appear to be correct with respect to the Hindoo and Mahomedan laws; though it may have been so with regard to the legal practice of the country; and whether previously established or not, the rule having now been in force above thirty years, it would be improper to abrogate it. The declared grounds, however, on which this limitation was introduced, viz. "the litigiousness and perseverance of the natives of this country in their suits and complaints, often productive not only of inconvenience and vexation to their adversaries, but also of endless expense and actual oppression;" are not applicable to suits for the recovery of the public rights and dues which may be instituted on the part of Government, under the provisions made by the regulations for subjecting the public claims and interests to the cognizance and decision of the established courts of justice. For such suits and claims, the unlimitted time heretofore allowed by the laws of England, (as by those of the Hindoos,) has been latterly restricted to a period of sixty years; being the largest period fixed for the judicial cognizance of the claims of individuals in particular cases. This period is recognized by the provisions of the Hindoo law in regard to individuals; and is not incompatible with those of the Mahomedan law. Under the former, it is applied to private rights and claims in cases of unmolested possession, unless there be proof of a bad title; and the distinction between *bonâ fide* possession, under a title believed by the possessor to be good and sufficient, and *malâ fide* possession, obtained by fraud or violence, has been taken in the Hindoo law, as in the laws of other countries, wherein long and peaceable possession is held and admitted to establish a right of possession and property; or at least to bar any legal claim of redress against the possessor. The period of time required to establish a right of usucaption and prescription has been different under different legal provisions, and being arbitrary, the Governor General in Council does not judge it necessary to alter the period which has been so long established in these provinces, under certain exceptions and provisions for minority, and other good and sufficient cause of delay in the judicial prosecution of demands of right beyond that period. But it is proper that the limitation of twelve years (with such exceptions and provisions) should be restricted, in cases of land, houses or other permanent immovable property to possession under a just and honest title, and that a longer period should be allowed for the cognizance of claims of right to such property, if the claimant can shew, by sufficient proof, that the person in possession acquired the same by violence, fraud, or by any other unjust and dishonest means: or that the property claimed was so acquired by any other person, from whom the actual occupant has derived his title; and has not been subsequently held under a just and honest title during the fixed period of prescription for *bonâ fide* possession. It is further requisite, that a limitation of time should be fixed for the delivery of applications to the courts of justice to obtain the summary inquiry and process, which has been authorized by the regulations, in cases of arrears of rent, due to proprietors and farmers of land from their under-tenants; of forcible dispossession from land, crops, or other property; and of the unlicensed sale or manufacture of intoxicating liquors or drugs, for which a penalty is recoverable by summary process in the civil courts; as well as in other instances wherein a summary process is authorized by the regulations; or penalties, or penal damages are sanctioned, by them; and declared to be recoverable by judicial process. Moreover, the limitation of time for preferring appeals to the several courts of judicature possessing appellate jurisdiction, has been found in some instances too short, from unavoidable delay in delivering copies of the decrees given against parties not personally present; and, in cases wherein Government has been a party, from the further delay that has occurred, in the transmission of a copy of the decree, through the usual official channel, to the Governor General in Council, whereby the public rights and interests have been liable to suffer injury. To provide therefore more effectually for securing the rights of the public, and of individuals, in the several cases herein recited, as well as to make further provision for the due administration of justice in other cases, connected therewith, as herein after specified, His Excellency the Most Noble the Governor General in Council has enacted the following regulation, to be in force, as soon as promulgated,

gated, in the provinces of Bengal, Behar, Orissa, and Benares; and in the provinces ceded to the Honorable the English East India Company, by the Nawaub Vizier.

Limitation of twelve years for commencement of civil suits, prescribed by existing regulations, not applicable to any public claims, instituted, on the part of Government, by persons duly authorized.

II. *First.* The limitation of twelve years for the commencement of civil suits, under certain provisions and exceptions, which, in pursuance of former rules and practice, has been continued and prescribed by Section 14, Regulation III. 1793: Section 8, Regulation VII. 1795: and Section 18, Regulation II. 1803; shall not be considered applicable to any suits for the recovery of the public revenue, or for any public right or claim whatever, which may be instituted by, or in behalf of Government, with the sanction of the Governor General in Council; or by direction of any public officer or officers, who may be duly authorized to prosecute the same on the part of Government.

All claims on the part of Government, for the cognizance of which no special rule may be in force, declared cognizable, under the regulations, if duly preferred within sixty years, from the origin of the cause of action;

Provided the cause of action shall not have arisen before the period of the Company's accession to the government of the several provinces specified.

Second. All claims on the part of Government, whether for the assessment of land held exempt from the public revenue without legal and sufficient title to such exemption, or for the recovery of arrears of the public assessment, or for any other public right whatever, (the judicial cognizance of which may not have been otherwise limited by some special rule or provision in force,) shall be heard, tried, and determined in the several courts of civil justice to which the cognizance thereof may properly belong, under the general regulations which have been or may be hereafter enacted, if the same be regularly and duly preferred at any time within the period of sixty years from and after the origin of the cause of action: provided that such cause of action shall not have originated within the provinces of Bengal, Behar, and Orissa, before the 12th August A. G. 1765; or within the province of Benares before the 1st July A. C. 1775; or within the provinces ceded by the Nawaub Vizier before the 10th November A. C. 1801; being the periods of the Company's accession to the civil government of the above provinces respectively.

Limitation of twelve years also declared not applicable to private claims of right to immoveable property, if the person in possession shall have acquired possession by violence, fraud, or other unjust or dishonest means;

Or if the person, from whom the actual occupant derived his title, shall have acquired possession by such means; and the property may not have been subsequently held, under a fair title believed to convey right, for twelve years:

Provided that such violent, fraudulent, unjust, or dishonest acquisition be established.

III. *First.* The limitation of twelve years fixed by Section 14, Regulation III. 1793, Section 8, Regulation VII. 1795, and Section 18, Regulation II. 1803, shall also not be considered applicable to any private claims of right to lands, houses, or other permanent, immoveable property; if the person or persons in possession of such property when the claim of right thereto may be preferred in a competent court of judicature, shall have acquired possession thereof by violence, fraud, or by any other unjust, dishonest means whatever; or if such property shall have been so acquired by any other person or persons from whom the actual occupant or occupants may have derived his or their title, and shall not have been subsequently held under a just and honest title, (such as inheritance, purchase, fair donation, or any other fair title believed to have conveyed a right of possession and property,) during a period of twelve years antecedent to the time of preferring a claim of right thereto in a competent court: provided that such violent, fraudulent, unjust, or dishonest acquisition be established to the satisfaction of the court in which the claim may be preferred; or, if the suit be appealable, to the satisfaction of the proper court of appeal.

Mode of proceeding to be observed in the cases provided for by the preceding clause.

Plaintiff to set forth the circumstances of unjust or dishonest acquisition in his plaint or replication

Evidence to be taken from both parties, if the allegation be denied by the defendant.

Determination to be passed by the original court; and by the court of appeal, in appealed cases.

Second. In all such cases, viz. when the original cause of action may have arisen more than twelve years before the institution of the suit, and the claim may not be cognizable under the exceptions and provisions contained in the regulations and sections above cited, but may be nevertheless cognizable under the provision made by the preceding clause, from the defendant's having acquired possession of the claimed property by violence, fraud, or other unjust and dishonest means; or from the property, after being so acquired by any other person, not having been subsequently held by the present occupant and his predecessors under a just and honest title during the prescribed period of twelve years; the plaintiff shall set forth the same distinctly, either in his petition of plaint, or in his replication. The court, after taking the answer and rejoinder of the defendant, shall if the alleged unjust and dishonest acquisition be denied by the defendant, examine any evidence that may be adduced by the plaintiff in proof of his allegation; as well as any evidence that may be brought by the defendant to prove his just and honest acquisition of the property claimed, or the just and honest possession thereof by himself and his predecessors during more than twelve years; after which the court shall determine whether the suit in question be cognizable under the present rule and section or otherwise; and if such determination be in favour of the plaintiff; or in appealed cases, if a determination for the cognisance of the suit be passed by the court of appeal; the merits of the plaintiff's claim of right shall be heard, tried, and determined, notwithstanding

And claim of right, if declared cognizable, to be tried and determined, as if preferred within twelve years after the origin of the cause of action.

No suit whatever to be held cognizable, in any court of justice, if the cause of action shall have arisen sixty years before the institution of it.

withstanding the lapse of time, in like manner as if the claim had been regularly preferred within twelve years after the origin of the cause of action.

Third. Provided, that nothing in the preceding clause of this section, or in any part of the existing regulations, shall be held to authorize the cognizance of any suit whatever in any court of justice, if the cause of action shall have arisen sixty years before the institution of such suit; nor shall any plea on the part of the plaintiff for the non-prosecution of his claim of right during a period of sixty years after the origin of his alleged cause of action, nor any original defect of title on the part of the possessor of the property claimed after the lapse of such period, be deemed a sufficient ground for taking judicial cognizance of any suit so preferred. Moreover, although the property claimed may have been acquired by an insufficient title within the period of sixty years, hereby fixed as the utmost limit for the cognizance of any claims in the established courts of justice, if the property so acquired shall have descended by inheritance to the person in possession when the claim thereto may be preferred after a lapse of twelve years; or if such person shall have obtained just and honest possession thereof by purchase, fair donation, or by any other title believed to be just and valid, and not appearing to be in any respect collusive for the purpose of depriving the plaintiff of his right, and either such occupant himself, or any other person in his behalf, or from whom the property may have been obtained, under any of the titles aforesaid, or the whole in succession shall have held quiet and unmolested possession, under a title believed to be just and valid, during a period of twelve years antecedent to the time of a claim thereto being preferred in a competent court: the provisions made by clauses first and second, of this section, shall not be considered applicable to any private claims to property so circumstanced, which are therefore to be deemed inadmissible as heretofore after twelve years from the origin of the cause of action, unless the same be cognizable under the exceptions and provisions already in force.

Clauses first and second of this section further declared inapplicable to any private claims to property acquired by an insufficient title within sixty years, if held by the actual occupant, or in his behalf, or by the persons from whom he may have obtained it, without molestation and under a title believed to be just and valid, during twelve years antecedent to the institution of the suit.

Provisions already in force, as stated in clause second of this section, applicable to all such cases.

Fourth. Provided further, that no length of time shall be considered to establish a prescriptive right of property, or to bar the cognizance of a suit for the recovery of property, in cases of mortgage, or deposit, wherein the occupant of the land or other property may have acquired, or held possession thereof as mortgagee or depositary only, without any proprietary right; nor in any other case whatever wherein the possession of the actual occupant, or of those from whom his occupancy may have been derived, shall not have been under a title *bonâ fide* believed to have conveyed a right of property to the possessor.

Further provision for cases of mortgage and deposit.

No length of time to bar the cognizance of suits for the recovery of property in such cases.

Nor in any case wherein the possession shall not have been under a title believed to have conveyed a right of property to the possessor.

IV. *First.* The provisions contained in Section 15, Regulation VII. 1799; Section 14, Regulation V. 1800; and Section 32, Regulation XXVIII. 1803; for the arrest of defaulting under-tenants, and their sureties, from whom arrears of rent may be due to proprietors and farmers of land, and for a summary inquiry to be made by the judges of the *zillah* and city courts when the parties so arrested for arrears of rent may be brought before them, are from the terms and objects of such provisions evidently intended to be applicable only to recent arrears of rent, due in the course of the current year, or immediately after the close of it; and it is hereby declared, that the summary inquiry and process authorized by the above regulations shall not be applied to any arrear of rent, or other demand which may have been due more than a complete year, before the delivery of the petition of arrest, and application for such summary inquiry and process, as directed by the regulations above cited. Provided, however, that this restriction shall not be considered to preclude the judges of the *zillah* and city courts, (or their registers, or the collectors, to whom such inquiry may be committed by them,) from including in the adjustment of recent arrears in such cases, any arrear which may be found due beyond the period of one year, if the same shall appear equitable.

Explanation of provisions in existing regulations for summary process to recover arrears of rent.

Applicable to recent arrears of rent only.

And not to be applied to any demand due for more than a complete year before the application for such process.

But judges, registers, and collectors, in the adjustment of arrears, in such cases, may include arrears due for more than one year, if it appear equitable.

Second. The rule of limitation prescribed by the above clause is also hereby extended to applications for summary process by landholders and farmers, against their agents employed in the management of their estates and farms, or in the collection of their rents, under the provisions made by Section 20, Regulation VII. 1799, Section 19, Regulation V, 1800, and Section 37, Regulation XXVIII. 1803; which authorize such process for the arrest and imprisonment of the agents of landholders and farmers, whilst in their service, or immediately after the resignation or dismission of agents of the above description, on account of demands for money in their hands, or for accounts which they may refuse to render, or for any matter relating to the discharge of their respective trusts.

Limitation in the above clause extended to applications for summary process by landholders and farmers, against their agents, under existing regulations.

V. The provisions contained in Regulation XLIX. 1793, Regulation XIV. 1795, and Regulation XXXII. 1803, for preventing affrays respecting disputed boundaries, crops, and other property, (whereby the judges of the *zillah* and city civil courts, are directed to take immediate cognizance of complaints of forcible dispossession; and upon the previous possession of the complainant being proved to their satisfaction, to cause the disputed land, crops, or other property, of which he may have been forcibly dispossessed, to be restored to him without inquiring into the merits of the claim of the dispossessor,) were likewise evidently intended to provide for the immediate cognizance of complaints of forcible dispossession, preferred at the time of such dispossession, or as soon afterwards as circumstances might admit. But no period having been limited for such complaints, it is hereby declared, that the summary inquiry and restoration to possession authorized by the regulations abovementioned, shall be restricted to cases of forcible dispossession which may be complained of to the proper *zillah* or city court, within three months after such dispossession shall have taken place; unless it be clearly shewn and established, that the complainant was prevented by good and sufficient cause from preferring his complaint, either in person or by his representative within that period.

Explanation of provisions in existing regulations, for preventing affrays respecting disputed boundaries, crops, or other property.

Summary inquiry and restoration to possession restricted to cases of forcible dispossession, which may be complained of within three months, after such dispossession.

Unless it be shewn that sufficient cause prevented the complaint being preferred within that period.

VI. All suits, complaints, and informations, cognizable by the civil courts of judicature, for the recovery of any fine or penalty receivable by Government, or by the informer, on account of the unlicensed manufacture or sale of intoxicating liquors or drugs, the illicit manufacture or sale of salt or opium, the fraudulent evasion of the stamp duties prescribed by the regulations, or on account of any other fines or penalties recoverable, either by a regular suit or by summary process, in the courts of *dewanny adawlut*, under any regulation in force which may not have fixed a specific period for the recovery thereof, shall be preferred to the proper courts, in such manner as the regulations require, within one year after the act, for which the fine or penalty may be demandable, shall have been committed; and no such suit, complaint, or information (not otherwise specially provided for) shall be admitted and proceeded upon in any court of justice after the period prescribed; unless the same be prosecuted on the part of Government, and good and sufficient cause be assigned why it has not been brought forward to judicial cognizance within one year after the commission of the act whereupon the fine or penalty sued for is demandable.

All suits, complaints, and informations, for fines or penalties receivable by Government or by the informer, under the regulations, for the recovery of which no specific period may have been fixed, to be preferred within one year after the act for which the fine or penalty may be demandable.

No such suit, complaint, or information, to be admitted after the prescribed period; unless prosecuted on the part of Government, and sufficient cause be assigned for the delay.

VII. All suits and complaints for penal damages, (viz. for pecuniary penalties on account of any act or omission, in opposition to the laws and regulations, exclusive of a compensation for actual losses,) in cases wherein such damages are allowed by the regulations to individuals, and for the recovery of which by judicial process no specific period may have been fixed, are also required to be preferred to the proper courts of justice, within one year after the cause of action shall have arisen, or as soon afterwards as it may be in the power of the party aggrieved to prefer the same; and no such suit or complaint shall be received and proceeded upon in any court of justice, after the expiration of one year from the time when the alleged cause of action may have arisen, without good and sufficient cause being assigned why the same has not been judicially prosecuted at an earlier period: Provided, that this restriction be understood to be strictly applicable to claims to penal damages only (as above described), and be not considered applicable to any suits for the recovery of the property, or for the value of property, appertaining to the plaintiff; or for a compensation or indemnification on account of any damage to, or loss of property actually sustained by the plaintiff; in all which cases the general rules of limitation are to be applied, as in other suits of individuals for the recovery of their rights in the civil courts.

Suits and complaints for penal damages allowed by the regulations to individuals, and for the recovery of which no specific period may have been fixed, to be also preferred within one year after the cause of action shall have arisen; or as soon afterwards as possible.

No such suit or complaint to be received, after one year, without sufficient cause, why it was not prosecuted at an earlier period.

But this restriction is not applicable to any suits for the recovery of property, or the value of property, appertaining to the plaintiff, or to suits for compensation or indemnification on account of damage to, or loss of property.

The general rules of limitation, as in other suits for recovery of pri-

VIII. The copies of decrees passed by the civil courts of justice not being always prepared in time to be delivered or tendered in open court to the parties or their *vakeels*, within ten days after passing the decree, as directed in Section 26, Regulation IV. 1793; (extended to Benares by Regulation VIII. 1795;) and in Section 27, Regulation III. 1803; (for the ceded provinces;) and such delivery or tender of the decrees of the *zillah* courts being sometimes delayed, from unavoidable causes, till nearly, or even until after, the expiration of the period limited for appeals; whereby the parties who may not be present when judgments are passed against them in the civil courts, are precluded from having the proper means of deter-

vate rights, to be applied in such cases.

Periods for preferring appeals limited by the existing regulations to be calculated from the delivery, or tender, of the decree appealed from, to the appellant or his *vakeel*, as directed by the regulations.

mining whether to appeal from such judgments, or otherwise; It is hereby provided that the period of three months, which is limited by the existing regulations for appeals from the decisions of the *zillah* and city courts to the provincial courts of appeal, and from the decisions of the latter courts to the court of Sudder Dewanny Adawlut, as well as the period of one month limited for appeals from the decisions of the registers and native commissioners to the judges of the *zillah* and city courts, and the period of six months limited for receiving appeals from the judgments of the courts of Sudder Dewanny Adawlut to His Majesty in Council, shall be calculated respectively, from the date on which a copy of the decree appealed from may have been delivered, or tendered in open court, to the appellant or his *vakeel*, as directed by the regulations abovementioned; or, in the event of neither the party or his *vakeel* being present to receive a copy of the decree, when ready to be delivered to him, the calculation shall be from the date on which the cause of the non-delivery of the decree may be noted upon the copy prepared for delivery, under the official signature of the judge, register, or native commissioner, as provided for by the regulations in such cases. The rule prescribed to the judges and registers of the *zillah* and city courts, for endorsing on the copies of decrees delivered or tendered by them, as well as inserting in their records, the date of delivering or tendering such copies, is also to be carefully observed by the native commissioners, that the exact period of such deliveries or tenders may be at all times ascertainable; and the judges are to communicate this rule to the native commissioners within their respective jurisdictions, for their information and guidance.

Rule prescribed to the *zillah* judges and registers for endorsing and recording the date of delivering or tendering copies of decrees, to be also carefully observed by the native commissioners.

In suits and appeals wherein Government may be one of the parties, a copy of the decree to be sent, as soon as it can be prepared, to the secretary to Government in the judicial department.

Such copies of decrees not required to be upon stampt paper, but to be duly authenticated, and accompanied with translations.

IX. In all original suits, or appeals, wherein Government may be one of the parties, the court which may pass judgment, whether for or against Government, shall in addition to the copies of decrees required by the existing regulations to be delivered to the parties, transmit a copy of the decree, as soon as the same can be prepared, to the secretary to the Government in the judicial department, for the information of the Governor General in Council. Such copies of decrees are not required to be upon stampt paper; but are to be duly authenticated by the official seal and signature of the judges, by whom the same may have been passed; and are to be accompanied with an English translation.

Power of admitting a special appeal, in certain cases, which has been vested in the provincial courts by Section 24, Regulation XLIX. 1803, declared to be equally vested in the court of Sudder Dewanny Adawlut, with respect to decrees passed by the provincial courts, not open to the regular appeal.

X. *First.* The power which has been vested in the provincial courts of appeal by Section 24, Regulation XLIX. 1803, to admit a special appeal from the decrees of the *zillah* and city courts in cases wherein a regular appeal may not lie to them; if on the face of the decree, or from any information before the court of appeal, it shall appear to them erroneous or unjust, or if from the nature of the cause, as stated in the decree, or otherwise, it shall appear to them of sufficient importance to merit a further investigation in appeal; is hereby declared to be equally vested in the court of Sudder Dewanny Adawlut, with respect to any decrees passed by the provincial courts of appeal, which from the amount or value of the cause of action, may not be open to the regular appeal to that court, but on any of the grounds above stated, may appear to merit a further investigation.

Provisions in clause second, of Section 24, Regulation XLIX. 1803, applicable to the authority vested in the Sudder Dewanny Adawlut by the present section.

Second. The provisions contained in clause second of Section 24, Regulation XLIX. 1803, explanatory and restrictive of the discretionary authority vested in the provincial courts by that section, are to be considered equally applicable to the authority vested in the court of Sudder Dewanny Adawlut by the present section. The provincial courts will consequently be still at liberty to receive petitions, in conformity to Section 2, Regulation II. 1798, and Section 30, Regulation IV. 1803, for the revision of their own judgments, in cases not regularly appealable to the Sudder Dewanny Adawlut: but any petitions for a special appeal to that court, under the preceding clause of this section, are to be presented to the Sudder Dewanny Adawlut, with a copy of the decree of the provincial court, and with the institution fee and security required in other cases of appeal.

Petitions for special appeals to Sudder Dewanny Adawlut to be presented to that court, with a copy of the decree appealed from; and with the institution fee and prescribed security.

Authority vested in the provincial courts by Section 9, *Regulation II.* 1801, *and clause twelfth, Section* 12, *Regulation IV.* 1803, *to receive appeals from the decrees and orders of the judges of the* zillah *and city courts, in all cases wherein the latter may have refused to admit an appeal from the decisions of their registers, or of the native commissioners, on any ground of delay, informality, or other default in preferring*

XI. The authority vested in the provincial courts of appeal by Section* 9, *Regulation II.* 1801, *and clause twelfth, of Section* 12, *Regulation IV.* 1803, *to receive appeals from the decrees and orders of the judges of the* zillah *and city courts, in all cases wherein the latter may have refused to admit an appeal from the decisions of their registers, or of the native commissioners, on any ground of delay, informality, or other default in preferring*

* This section is rescinded by clause first, Section 3, Regulation XXVI. 1814.

it, or after having admitted the appeal, may dismiss it on the ground of some default, without investigation of the merits of the cause, is hereby extended to all cases wherein the judges of the zillah *and city courts may refuse to admit, hear, and determine an original suit preferred to them, on the ground of delay, informality, or other default in preferring it; or having admitted the suit, may dismiss it on the ground of some default, without investigation of the merits of the cause; and all such cases are accordingly declared appealable to the provincial courts of appeal, whatever may be the amount, or value in issue in the cause. The provisions contained in the sections above mentioned for ordering a trial and determination of the cause upon its merits in the* zillah *or city courts, if it shall appear to the provincial court that the suit has been rejected or dismissed upon insufficient grounds; as well as for punishing litigious appeals, in the cases therein stated, shall be held equally applicable to the appeals preferred under this section; as shall also the several provisions contained in Section 26, Regulation XLIX. 1803, with respect to the receipt of such appeals, without any institution fee; the pleadings and summary proceedings to be held upon them; the notice to be given to respondents: the security to be required from the appellant or respondent; and the fees to be allowed to the pleaders employed in such cases.*

gulation IV. 1803, extended to cases wherein the zillah *and city courts may refuse to admit, hear, and determine, an original suit, on the ground of delay, informality, or other default; or may dismiss it on the ground of some default; without investigation of the merits of the cause.*

Provisions in sections above mentioned, and in Section 26, Regulation XLIX. 1803, to be held applicable to all appeals under the present section.

XII. The absolute revocation by Sections 3. and 4, Regulation XII. 1797, of the option given by Section 10, Regulation VI. 1793, to persons desirous of appealing to the Sudder Dewanny Adawlût, either to present their petitions of appeal to that court, or to the court in which the decree appealed against may have been passed; as well as of the similar option given by Section 12, Regulation V. 1793, with respect to appeals to the provincial courts, from the decrees of the *zillah* and city courts, having been found productive of inconvenience and hardship, in particular cases wherein the parties, from not being fully advised of the rules referred to, have resorted, under the option first given, to the courts of appeal; it is hereby declared, in qualification of Sections 3. and 4, Regulation XII. 1797, as well as of Section 12, Regulation IV. 1803, and Section 10, Regulation V. 1803; that the court of Sudder Dewanny Adawlut and the several provincial courts of appeal may, in any particular case, if they see reason for so doing, receive and admit petitions of appeal, in cases appealable to them respectively under the regulations, instead of requiring the appellant to present his petition of appeal, in the first instance, to the court, in which the judgment appealed from may have been passed. Provided, however, that the petitions of appeal so received and admitted be accompanied with an authenticated copy of the decree appealed against; as well as with the requisite institution fee and security for the eventual costs of appeal, (in cases wherein such are required by the regulations,) and security for *vakeel's* fees, (if a *vakeel* be employed;) unless the appellant be a pauper; in which case, to render his petition of appeal admissible, he must conform to the rules prescribed for the admission of appeals *in formâ pauperis*.

Qualification of such part of the existing rules for preferring appeals, as require that the petition of appeal be presented, in all cases, to the court in which the decree appealed from may have been passed.

Court of Sudder Dewanny Adawlut and provincial courts may, in particular cases, receive and admit petitions of appeal; although presented to them in the first instance.

Petitions of appeal, in such cases, to be accompanied with a copy of the decree appealed from; and the requisite institution fee and security.

XIII. To obviate all doubt whether the summary processes authorized by the regulations herein before specified for the recovery of arrears of rent due to landholders and farmers from their under-tenants; and for recovering the possession of land, crops, or other property, in cases of forcible dispossession; as well as the summary inquiries which are provided for by the regulations to be made by the judges of the *zillah* and city courts of *dewanny adawlut*, in cases of information against unlicensed manufacturers or venders of intoxicating liquors and drugs, and in other similar instances, be meant by the regulations, to be personally and exclusively committed to the judges of the above courts, (and to the assistant judges, where any may have been appointed under Regulation XLIX. 1803;) or be referrible, in common with regular suits, to their registers; it is hereby explained, that all such summary inquiries and processes are to be conducted, as far as practicable, by the judges (and assistant judges) in person; with the assistance of the collectors in adjusting accounts of arrears of rent between proprietors and farmers of land, and their under-tenants, as expressly authorized by Section 15, Regulation VII. 1799, and Section 32, Regulation XXVIII. 1803; but that whenever, from the urgency of other depending causes and business before the *zillah* and city judges (and the assistant judges), they may not be able to make the summary inquiries above noticed with the expedition requisite in such cases, they are authorized to refer the same to their registers, to proceed thereupon according to the regulations;

Explanation, by whom the summary inquiries authorized by the regulations, for the recovery of arrears of rent, and for the possession of land, crops, or other property, as well as in cases of information against unlicensed manufacturers or venders of intoxicating liquors or drugs, and other similar instances, are to be made

Such summary inquiries to be conducted, as far as possible, by the judges (and assistant judges in person; with the assistance of the collectors in adjusting accounts of arrears of rent.

But the judges are authorized to refer such cases to their registers, when they

may not be able to make the inquiry themselves, with the requisite expedition; provided the cause of action be such as would be referrible to their registers in a regular suit.

The judge may, at any time, recal such references to his register, and investigate the same himself; And may, in particular cases, appearing to require it, revise and amend the order passed by the register.

Explanation in preceding section not meant to restrict the power of the registers, when vested with authority to officiate as judges.

Further declaration of the register's powers in the absence of the judge, or during a vacancy in the office, although he may not have been invested with the authority of judge. May conduct, in conformity to the regulations, any of the summary inquiries referred to, which require immediate attention and process.

May also receive any new suits, instituted according to the regulations. Refer to native commissioners such as are cognizable by them.

Try himself any suits referrible to him, under prescribed limitations. And summon defendants, receive pleadings, documents, and lists of witnesses, in suits cognizable by the judge only

May likewise in cases of urgency, but not otherwise, take the evidence of witnesses in the suits last mentioned

Appeals from decisions of native commissioners not to be tried by any register, who may not have been authorized to act as judge, without special authority for this purpose Nor any register, though authorized to officiate as judge, to hear appeals from judgments passed by himself. In such cases, as well as in all cases of appeals from decisions of the registers when there may be no judge, or acting judge, on the spot, the provincial court may, to obviate considerable delay, remove the appeal from the *zillah* or city court, to the provincial court; and proceed thereupon as on other appeals.

gulations; provided that the cause of action be such as would be referrible to their registers in a regular suit, under the rules prescribed for such references, and provided also that the judge, who may have referred any such case for summary inquiry by his register, may at any time recal the same if he should see occasion for it, or if he should subsequently find time to investigate the case himself. The judge is likewise empowered, in any particular case which may appear to require it, to revise and amend any order passed by his register in such cases, on representation from the parties, or otherwise.

XIV. *First.* The explanation contained in the preceding section is not of course meant to restrict the power of the *zillah* and city registers to conduct the summary inquiries therein referred to, whenever they may be vested with authority to officiate as judges, during the absence of the judge, or during a vacancy in the office of judge, or otherwise, under the provisions contained in Regulation IV. 1796, and Section 23, Regulation II. 1803.

Second. It is hereby further declared, in explanation of Section 5, Regulation IV. 1796, and Section 15, Regulation XII. 1803, which prescribe the duties to be performed by the register, when not provisionally invested with the authority of judge, that the register in such case is authorized, during the absence of the judge, or during a vacancy in the office of judge, to conduct, in conformity to the regulations, any of the summary inquiries referred to in this regulation, which may appear to require immediate attention and process. The register is also authorized, in such cases, although not vested with the full powers of judge, to receive any new suits of whatever description which may be instituted according to the regulations; to refer to the native commissioners such as may be cognizable by them; to try himself any suits which would have been referrible to him by the judge under the prescribed limitations (subject to the appeal provided in all cases from the decisions of the register to the judge); and to proceed upon suits which are exclusively cognizable by the judge, so far as to summon the defendant, and receive the pleadings of the parties, or of their *vakeels*, with any written documents or lists of witnesses which may be ordered by them; but no further, unless, in any instance, there shall appear to be urgent reason to take the evidence of any witness or witnesses in such suits; in which case the register in charge may take, or cause to be taken, the depositions of such witnesses, in the mode prescribed by Section 21, Regulation XLIX. 1803; or, if the witnesses be resident in a different jurisdiction, and at a distance exceeding fifty *coss*, in the mode prescribed by Section 6, Regulation IV. 1793, and Section 7, Regulation III. 1803, for the examination of witnesses in such cases.

Third. No appeals from decisions of the native commissioners shall be tried by any register who may not have been authorized by the Governor General in Council to act as judge; unless he shall receive special authority for this purpose from the Governor General in Council, under the regulations above noticed; and no register authorized to officiate as judge is, of course, to hear and determine any appeal from judgments which may have been previously passed by himself as register. In such cases, as well as in all cases of appeals from the decisions of the registers, when there may be no judge, or person authorized to officiate as judge, on the spot; if any considerable delay is likely to occur in the decision of the pending appeals from the absence of the *zillah* or city judge, or otherwise, the provincial court of appeal, upon representation made to them by either of the parties in any such appeals, may remove the appeal from the *zillah* or city court, in which the same may be depending, to the provincial court of appeal, and proceed thereupon as in other appeals before that court.

A. D. 1806. REGULATION II.

A REGULATION *for explaining and amending, in certain Cases, the Rules of Process to be observed by the Civil Courts of Judicature.*—PASSED *by the Governor General in Council, on the* 27*th of March* 1806 ; *corresponding with the* 15*th Chyte* 1212 *Bengal era ; the* 23*d Chyte* 1213 *Fussily ; the* 15*th Chyte* 1213 *Willaity ; the* 7*th Chyte* 1863 *Sumbut ; and the* 6*th Mohurrum* 1221 *Higeree.*

Preamble.

BY the regulations in force for the guidance of the *zillah* and city courts, one uniform process is prescribed for causing the appearance of all defendants in civil suits, not being Hindoo or Mahomedan women of rank or quality, such as according to the custom of the country, would render it improper to compel them to appear in an open court of justice ; and not coming within the description of persons excepted from the general rule, by Section 10, Regulation VIII. 1795 ; Section 2, Regulation LV. 1795 ; and other special clauses. The original process so prescribed, is a summon on the defendant, requiring him to accompany the officer deputed to serve it ; or to deliver sufficient security to appear in person or by *vakeel*, and answer to the complaint against him on a day appointed. In the event of the defendant's being found, and his not giving the required security, the officer charged with the summons is to take his person into custody, and bring him before the court, which is empowered to commit him to close custody until he shall give the requisite security, or perform the decree which may be passed upon the complaint against him. For the relief of defendants in cases of undue or exaggerated demands, the judges of the *zillah* and city courts were authorized by Section 2, Regulation III. 1802, (corresponding with Section 8, Regulation XIV. 1803, for the ceded provinces,) to fix the extent of the security to be required for the appearance of the defendant ; with directions, whatever may be the claim of the plaintiff, to demand from the defendant such security only, as may appear necessary to secure his appearance during the trial of the suit. But, except in petty causes, for money or property not exceeding in amount or value the sum of ten sicca rupees, (in which the native commissioners are restricted by Section 9, Regulation XVI. 1803, and Section 17, Regulation XLIX. 1803, from requiring security, unless they shall receive certain information that the defendant is about to abscond,) the civil courts of judicature are not empowered to dispense with the requisition of bail, from defendants in any case not specially provided for by the regulations ; although in many instances the small amount of the claim, and the known property and responsibility of the defendant, render the demand of security unnecessary and vexatious. On the other hand, with an exception to the power vested in the native commissioners, of attaching the personal property (instead of confining the person) of any defendant who may not give the security required for his appearance, the civil courts are not authorized to attach the property of any defendant, until a judgment be given against him ; even when the defendant against whom a summon may issue, shall abscond, or shut himself up in any building, or retire to any place so that the process cannot be served upon him ; an *ex parte* trial and decision only being provided for such cases, after proclamation in the court, and at the defendant's place of residence. A dishonest debtor therefore, by concealing himself and disposing of his property, is enabled to defraud his creditor and to defeat the ends of justice. At the same time a strict application of the existing

rule of final process in execution of decrees, (whereby the civil courts are directed to levy the amount adjudged, by the public sale of a sufficient portion, or if requisite, of the whole of the lands, houses, and effects belonging to the party against whom the judgment is given, or if necessary, both by the sale of his property and attachment of his person, without any discretion to grant relief from personal attachment in cases of insolvency,) enables rigorous creditors to exercise undue severity towards their debtors, by keeping them in confinement (at a small charge for their subsistence) when they have no means of discharging the amount demandable from them. And doubts have been entertained whether the terms of the existing rules admit of any indulgence of time being allowed by the courts for the satisfaction of a final judgment, without the express consent of the party in whose favour such judgment is passed. Also, whether the amount paid for the subsistence of persons confined in execution of decrees of the civil courts is to be repaid by the party confined on his release. To explain and amend therefore the existing rules of process, in the several instances above mentioned, in such manner as appears requisite, expedient, and conducive to justice; the Governor General in Council has enacted the following rules, to be in force from the time of their promulgation throughout all the provinces under the immediate government of the Presidency of Fort William.

The general first process to be issued by the civil courts, instead of the summons and requisition of security prescribed by Section 5, Regulation IV. 1793, and Section 5, Regulation V. 1808, shall be a notice only.

What the notice shall contain.

II. *First.* Upon the institution of a civil suit in the mode prescribed by the regulations, in any *zillah* or city court, the general first process against the defendant, instead of the summons and requisition of security for appearance prescribed by Section 5, Regulation IV. 1793, and Section 5, Regulation III. 1803, shall be a notice only, containing a short statement of the demand, with a requisition to attend in person or by *vukeel*, and to deliver an answer to the plaint, on or before a certain day, to be specified in the notice.

How the notice is to be served, if the defendant have an accredited agent residing at the place where the court is held, to receive such notices or other judicial processes.

Second. If the defendant have an accredited agent at the place where the court is held, expressly empowered, either by a clause in his general *moktarnamah*, or by a separate *moktarnamah* granted for that purpose, to receive on behalf of his constituent notices or other judicial processes, which may not be specially ordered to be served personally, by an officer of the court; the notice to be issued under the preceding clause, shall be tendered to such agent, to be communicated by him to his principal; and the agent's acknowledgment, to be endorsed upon it, shall be accepted as a sufficient service of it; if he be desirous of giving such acknowledgment in preference to the notice being served on the person of his principal by an officer of the court.

Notice to be tendered to such agent; and his acknowledgment, to be endorsed on it, shall be accepted as a sufficient service of it.

How the notice is in other cases to be served.

Third. If a defendant shall not have an accredited agent at the place where the court is held, or if he shall not have expressly authorized his agent to receive notices of the above description; or if such agent shall decline receiving the notice for communication to his constituent, and the defendant be resident within the jurisdiction of the court; it shall be served on him through the *nazir* of the court, by a single *chuprasy* or *peon*; who shall require only the acknowledgment of the defendant to be endorsed upon it, or if he be absent from his usual place of residence, the acknowledgment of his principal agent; or of any person acting for him during his absence. If the defendant be resident within the jurisdiction of any other *zillah* or city court than that in which the suit may have been instituted; the notice shall be transmitted to the judge of the *zillah* or city, in which the defendant may reside, to be served in the manner above directed. If the defendant be neither resident within the jurisdiction of the *zillah* or city court in which the suit may be instituted, or of any other *zillah* or city court; and the suit shall notwithstanding be cognizable; either in claims to landed or other immoveable property, from the property claimed being situated within the jurisdiction of the court; or in other cases from the cause of action having arisen within its jurisdiction; the notice, if the suit be for land or other immoveable property, shall be served upon the defendant's agent or representative in charge of such property; and in other suits, the judge shall cause notice of the claim to be conveyed to the defendant, in such manner as may appear most certain and convenient according to the circumstances of the case.

To be served by a single *peon* or *chuprasy*, who shall require only the endorsement of its receipt by the defendant, or, if he be absent, the acknowledgment of his principal agent or person acting for him.

How the notice is to be served, if the defendant be resident in another jurisdiction;

Or, if the defendant be neither within such jurisdiction nor within that of any other *zillah* or city court, and the suit be cognizable notwithstanding, from the property if immoveable being situated in such jurisdiction, or from the cause of action having arisen therein; in the former case, the notice to be serv-

Fourth. The notices issued under the preceding clauses of this section to weavers or others employed in the provision of the Company's investment, and to *molungees* and others employed in the manufacture of salt, shall be served in the manner directed by the existing

regulations

regulations with respect to the service of summonses upon persons so employed, when sued as defendants in the civil courts.

III. If a defendant to whom a notice may have been issued, as directed in the preceding section, shall abscond, or is not after diligent search to be found; or shall shut himself up in any house or building, or retire to any place, so that the notice cannot be served upon him, the judge, (or the register in causes referred to him,) on receiving the *naxir's* return to this effect, shall issue a proclamation, as directed in similar cases, when a summons cannot be served upon a defendant, by Section 11, Regulation IV. 1793, and Section 13, Regulation III. 1803. If the defendant shall not appear in person or by *vakeel*, by the time limited in such proclamation, or if a defendant, who may have been served with a notice, as directed in the preceding section, shall not appear in person or by *vakeel*, within the time specified; or if, having appeared, he shall refuse to answer the plaint, or make other default; the court, as provided in the sections above mentioned, shall proceed to try the cause *ex parte*; and after examining the plaintiff's evidence in support of his claim, shall give judgment, in the same manner as if the defendant had appeared, answered, and entered into proof.

IV. If a defendant, after receiving the notice prescribed in Section 2, shall attend in person or by *vakeel*, and deliver his answer to the plaint, and no reason shall subsequently appear to the court for requiring security for his appearance, during the trial of the suit; he shall be allowed to defend the cause, to its determination, without being called upon for such security. But if the judge (or register) shall be satisfied, by sufficient proof, that there is reason to believe the defendant intends to abscond, and withdraw himself from the jurisdiction of the court, he may either on the institution of the suit, or at any time whilst the suit is depending in the *zillah* or city court, issue process against the defendant, requiring him to give security for his appearance, as prescribed on the issue of summonses, by Section 5, Regulation IV. 1793, and Section 5, Regulation III. 1803; under penalty of being committed to close custody until such security be given, or the decree of the court be complied with, as provided in the abovementioned sections; or until an attachment of property shall have taken place, to secure the execution of the ultimate judgment in the cause, under the provision made by the following section of this regulation. The security bond, to be executed in such instances, shall in substance correspond with that prescribed by Section 3, Regulation XI. 1797, and Section 29, Regulation III. 1803; and in fixing the extent of the security to be required, the judge (or register) is authorized to exercise the discretion vested in him by Section 2, Regulation III. 1802; and Section 8, Regulation XIV. 1803.

V. *First.* In any case if the judge (or the register in causes referred to him) be satisfied by sufficient proof, that there is ground to apprehend the defendant means to dispose of the property in his possession by any private transfer; or to cause the public sale of any disputed land, by withholding the assessment upon it; or to remove any personal property from the jurisdiction of the court, whilst the suit against him is depending; for the purpose of avoiding the execution of an eventual judgment against him, the judge (or register) is authorized to call upon the defendant for *malzaminy* security, in such sum as may appear sufficient to make good the ultimate judgment of the court; and in the event of such security not being given (within a reasonable time to be allowed for that purpose), to cause the attachment of any land, effects, or other property belonging to, or possessed by, the defendant, to the amount or value of the cause of action in the suit depending; or the attachment of which may be deemed necessary to secure the execution of the judgment to be passed in the cause:

Second. The attachment in such cases shall be made by a written order of the court, to be read and proclaimed upon the spot, and to be affixed in some conspicuous situation at the place where the property is situated; after which any private alienation of the property sequestered, whether by sale, gift, or otherwise, during the continuance of the attachment, shall be deemed illegal and void; and any unauthorized removal of the property so attached, during such period, with a view to oppose or evade the sequestration, shall be punishable, on proof, as an act of resistance to the process of the court; according to the provisions in force concerning resistance to the process of the civil courts. In suits for landed property of

ved upon the agent in charge of such property; and in the latter, in such manner as the judge may deem most certain and convenient.

Notices issued to weavers, *molungees*, and others employed in the provision of the Company's investment, and the manufacture of salt, to be served in the same manner as summonses to such persons under the existing regulations.

Court how to proceed against a defendant to whom a notice may have been issued, who shall abscond, or cannot be found, or act so that the notice cannot be served on him. Proclamation to be issued, and what it shall contain. Cases in which the court is to proceed *ex parte* on the allegations and evidence of the plaintiff only.

Defendant, after receiving the notice and attending in person or by *vakeel*, to be allowed to defend the suit to its termination, without being called upon for security, unless it appear to the court requisite. How the court is to proceed, if it appear on sufficient evidence that the defendant intends to abscond. Process to be issued in such cases requiring security, under specific penalties. Security bond to correspond with that prescribed in the regulations herein quoted; and in fixing the extent of the security, the judge or register is authorized to exercise the discretion allowed under the regulations herein specified.

Malzaminy security to be required in cases wherein it may appear to the judge or register, on sufficient proof, that the defendant means to dispose of the property or land in dispute, by private transfer or public sale, or in any of the modes herein specified. If the security be not furnished within a reasonable time, any land, property, or effects in the possession of the defendant, to the amount or value of the cause of action, to be attached.

How the attachment in such cases to be made; after which any private alienation of the property in dispute by sale, gift, or otherwise declared to be illegal and void.

Any unauthorized removal of the property attached to be punished on proof, as a resistance of the process of

the court, in the manner directed by the existing regulations. Attachment in the mode directed by the regulations herein quoted to be made through the collector, in suits for landed property of considerable value, if necessary, until the suit be decided, *or malzaminy* security be given. In all other cases the attachments made under this rule, shall not, without special cause, remove the defendant or his representative from the possession and management of the lands attached. Nor preclude any act of the defendant or his representative, consistent with the object of the attachment.

How the judge or register is to proceed with regard to the property attached, after the decision of the suit. Provision if the plaintiff's claim be dismissed, or not in any considerable portion established against the defendant.

Cases, in which an attachment of property may have taken place, to be tried and determined as speedily as possible, without regard to their number on the file of depending causes. Attachment to be taken off at any time previous to the decision of the cause, if sufficient *malzaminy* security be tendered.

Provisions of the two preceding sections to be held applicable to the provincial courts of appeal and Sudder Dewanny Adawlut, in all cases of the continuance of attachments in appealed cases, or in default of security.

Promissory notes or other obligations of Government, or any other sufficient money security, to be accepted instead of *hazirzaminy*, or *malzaminy*, when either of those securities may be demandable, from a party in any civil suit or appeal. Such securities to be kept by the treasurer of the court, and disposed of according to the direction of the court after the termination of the suit, or whenever the purpose of the deposit shall have been attained.

Rules in Section 2. of this regulation, directing the issue of a notice only to defendants, without requisition of personal security, except on proof that they are about to abscond, to be observed by native commissioners.

of considerable value, wherein it may appear necessary, for the purposes of justice, to divest the defendant from the management of the land until the suit be decided, or *malzaminy* security be given, the attachment shall be made through the collector of the district in which the land is situated; as prescribed by Section 6, Regulation V. 1798, and by clause ninth of Section 12, Regulation IV. 1803, in appealed cases, wherein neither the appellant nor respondent may be able to give security for staying execution of the decree. But in other cases the attachments, which may be ordered under the present rule, shall not, without special cause, to be recorded on the proceedings of the court, remove the defendant or his representative from the possession and management of the land, or other property attached, until a decision be passed in the cause before the *zillah* or city court; nor be understood to preclude any act of the defendant or his representative relative to such property, which may be consistent with the object of the attachment.

Third. Upon the decision of the suit, the judge (or register) shall pass such further order relative to the property attached as may be just and conformable with the judgment given in the cause. If the decree be against the defendant, all right and interest possessed by him in the property attached, (saving arrears of rent or revenue due from land, and any other *bonâ fide* claims which may be entitled to satisfaction in preference to the decree,) shall be held answerable for the execution of the judgment, in the mode prescribed by the regulations. But if the plaintiff's claim be dismissed, or be not in any considerable proportion established against the defendant, all expense and loss to the defendant, which may arise from the attachment of his property in consequence of such claim, shall be reimbursed to him by the plaintiff, as part of the costs of suit.

VI. Whenever any property may be attached by order of a *zillah* or city court, under the provisions contained in the foregoing section, the trial of the cause shall be proceeded on, and brought to a conclusion, as speedily as possible, without regard to the order of time, with respect to other depending causes, in which it may have been instituted. The attachment shall also be taken off on the delivery of sufficient *malzaminy* security, at any time previous to the decision of the cause in the *zillah* or city court.

VII. The provisions contained in the two preceding sections, shall be held equally applicable to the provincial courts of appeal, and Sudder Dewanny Adawlut, in all cases wherein an attachment of property, made by a *zillah* or city court, may be continued during the trial of an appeal before a provincial court, or the court of Sudder Dewanny Adawlut; or in which those courts may judge it proper to order any attachment of property, in default of security being given, as required, either by the appellant or respondent in any depending appeal.

VIII. When personal bail or security for money or other property, may be demandable from a party in any original civil suit, or appeal, and he shall tender a deposit of money, or of promissory notes, or other obligations of Government, or any other sufficient money security, to the amount required; such deposit shall be accepted instead of *hazirzaminy* or *malzaminy* securities; and shall be carefully kept by the treasurer of the court; to be restored, or disposed of as the court may direct, on the termination of the cause, or whenever the purpose, for which the deposit is made, shall have been accomplished.

IX. All native commissioners empowered to act as* munsiffs, ameens, *or arbitrators, shall be guided by Section 2. of this regulation, directing a notice only to be issued to defendants in the first instance, without requisition of personal security, except on proof that the defendant is about to abscond. But nothing in the present regulation shall be understood to authorize any native commissioner to require personal security from defendants, or to attach their property; except in the cases wherein such authority is already declared to be vested in them, by Section* 11, *Regulation XL.* 1793; *Section* 9, *Regulation XVI.* 1803; *and Section* 17, *Regulation XLIX.* 1803. *The judges of the* zillah *and city courts, and the registers of those courts, with the sanction of the judges, may however issue any of the processes authorized by this regulation, in suits referred to a native commissioner,* sudder *or* mofussil; *whenever such processes may appear necessary, and applicable to the case in reference.*

This section is rescinded by Section 2, Regulation XXIII. 1814.

X. Doubts having been entertained whether any of the established city courts are competent to provide, in their decrees, for the payment by instalments of money adjudged by them, or to make such provision, in cases of indigence, at any period after passing their decrees; it is hereby declared, that the civil courts in general are restricted from granting indulgence of time, in the satisfaction of a final judgment, when property, from which such judgment can be satisfied, (whether belonging to the party against whom the judgment is given, or to his surety or sureties for the performance of such judgment,) may be forthcoming; unless the party in whose favour the decree is passed, shall consent to wave his right of immediate enforcement, under an engagement for gradual payment, or otherwise; or unless a short postponement of the sale of property shall, under any particular circumstances, appear just and equitable. But when no property may be pointed out from which the judgment can be enforced, and the party against whom it is passed, or his surety if he have given any, may be willing to engage (under sufficient *malzaminy or haxirzaminy* security, as one or the other may be tendered or required) for the liquidation of the amount due, by instalments, within such period, as the court passing the final decree, or intrusted with the execution of it, shall deem reasonable and proper, it shall be competent to the court, by which the final judgment is given, or to a *zillah* or city court enforcing the decision of a native commissioner, and to any superior court revising the proceedings of an inferior court, to accept the engagement so offered, and to cause execution of the decree in conformity therewith, so long as the conditions of it shall be duly fulfilled. In such cases, if the person delivering the accepted engagement shall have been taken into custody, he shall be immediately discharged; and shall not be liable to further arrest in execution of the judgment to which such engagement may refer, except on failure to perform the terms of it; nor shall any interest be chargeable in such instances beyond what may be provided for in the engagement.

XI. For the relief of insolvent debtors and their sureties, who may be in confinement for the satisfaction of the decrees of the civil courts, and may have no means of discharging the amount demandable from them, by instalments or otherwise, the judges of the *zillah* and city courts, the provincial courts of appeal, and the court of Sudder Dewanny Adawlut, are further empowered, on receiving from the person, or persons confined, in such cases a statement upon oath, containing a full and fair disclosure of all property belonging to them, whether in land, money, or effects, or of whatever description; and whether held in their own names, or in the names of any other persons, or jointly with others; to cause inquiry to be made for the purpose of ascertaining the truth of such statement, or the validity of any objections thereto, which may be offered by the party at whose instance the prisoner or prisoners may be in confinement; and if the result of such inquiry shall satisfy the court, that the statement of property so delivered is true and faithful, and that the persons confined possess no other means of discharging the amount demandable from them, and the property included in the statement, or such part thereof as the court may deem it proper to sell, in satisfaction of the judgment passed, shall be given up for sale; the court, on receiving such surrender of property, may cause it to be sold, in the mode prescribed by the regulations; and may order the release of the person or persons, in confinement, either with, or without, *haxirzaminy* security, for his or their appearance when required. Provided, however, that nothing in this section, which is meant to grant relief in cases of real inability and fair dealing only, shall entitle any debtor or surety, confined under the judgment of a civil court, to be released, without full satisfaction of such judgment, if he shall be guilty of any fraudulent concealment of property; or shall have committed any manifest fraud or misdemeanor, which may appear to the court to render him an improper object of the relief intended for persons acting with good faith; and willing to surrender all the property in their possession for the benefit of their creditors. Nor shall release from confinement, in any instance, under this section, prevent the creditor from bringing to sale (by application to the court), in full payment of the sum adjudged due to him, any property which may be subsequently possessed by the party released; or from causing such party to be again confined until the judgment be fully satisfied, when it may appear, by sufficient proof, that he had fraudulently concealed any property actually belonging to, and known to have been possessed by him, either in his own name, or that of others in his behalf, at the time of his discharge. Provided

sioners. But not to be understood to authorize native commissioners to require personal security from defendants, or to attach their property, except in the cases wherein such power is already vested in them by the regulations herein quoted. Judges however, and registers with their sanction, may issue the processes authorised in this regulation, in suits referred to native commissioners when necessary or applicable.

Explanation of a doubt whether the civil courts are competent to provide for the payment of money adjudged, by instalments. Declaration that the civil courts are restricted from granting indulgence of time, when there may be property sufficient and liable to satisfy the judgment; unless the party in whose favour the judgment is passed, shall consent to wave his right of the immediate enforcement of the judgment, or unless a short postponement of the sale of the property shall appear equitable. Provision when no property to satisfy the judgment may be pointed out; and the party against whom the decision is passed, or his surety, may be willing to engage for the liquidation of the amount due by instalments, under sufficient *malzaminy* or *haxirzaminy*, as the one or the other may be tendered or required. Competency of the courts to receive such engagements, declared. In such cases, if the person delivering the engagement shall have been arrested, he is to be immediately released, and not again arrested in execution of the same judgment, except on failure to perform his engagement. Nor shall any interest be chargeable in such instances, beyond what the engagement provides for.

The *zillah* and city civil courts, the provincial courts, and the Sudder Dewanny Adawlut are empowered to afford relief to insolvent debtors and their sureties, on receiving a statement on oath containing a fair disclosure of all property belonging to them. Inquiry to be made to ascertain the truth of such statements, or the validity of any objections to them. If the statements appear true and faithful, and the person in confinement has no other means of paying the amount

due, and shall make a surrender of his property; the court, after causing it to be sold, may release the debtor with or without security for appearance. Provided that no debtor or surety in confinement shall be entitled to release, who may appear to have been guilty of a fraudulent concealment of property, or any manifest fraud or misdemeanor. Nor shall the release of the debtor under this section prevent the creditor from bringing to sale any property which may be subsequently possessed by the party released, in full payment of the sum adjudged against him, or from causing the party to be again confined on its being proved that he fraudulently concealed any property in his own name, or in that of others at the time of his discharge. Provided further, that all orders passed by the civil courts, shall on representation from the party affected, be open to the revision of the provincial courts; and in like manner any orders passed by the latter courts under this section shall be open to the final decision of the Sudder Dewanny Adawlut.

Explanation that the amount paid for the subsistence of persons in confinement in satisfaction of the judgments of the civil courts, is to be reimbursed, in common with other costs of suit, when there may be any property forth coming. But persons are not to be detained for the reimbursement of the subsistence money only, when no property can be pointed out.

vided further, that all proceedings held and orders passed, by the judges of the *zillah* and city courts, under the discretion vested in them by this section, shall, on representation of the parties affected thereby to the provincial courts of appeal, be open to the revision and determination of those courts; and in like manner, all orders passed by the provincial courts under this section, shall be open to the final decision of the Sudder Dewanny Adawlut.

XII. A question having arisen, whether the amount paid for the subsistence of persons in confinement, under judgments of the civil courts, as prescribed by Section 8, Regulation IV. 1793, and Section 10, Regulation III. 1803, is to be repaid by the party confined, on his release; it is hereby explained that such repayment is to be made, in common with the reimbursement of other costs of suit and process, when any property may be forthcoming from which the amount can be levied. But when no property can be pointed out for the reimbursement of the subsistence money paid to prisoners, they shall not be detained in confinement for the repayment of such money only.

A. D. 1806. REGULATION XVII.

A REGULATION *for extending to the Province of Benares, the Rates of Interest on future Loans, and Provisions relative thereto, contained in Regulation XV.* 1793; *also for a general Extension of the Period fixed by Regulations I.* 1798, *and XXXIV.* 1803, *for the Redemption of Mortgages and conditional Sales of Land, under Deeds of Bye-bil-wuffa, Kut-Cubaleh, or other similar Designation.*—PASSED *by the Governor General in Council, on the* 11*th September* 1806; *corresponding with the* 27*th Bhadoon* 1213 *Bengal era; the* 13*th Bhadoon* 1213 *Fussily; the* 27*th Bhadoon* 1213 *Willaity; the* 14*th Bhadoon* 1863 *Sumbut; and the* 27*th Jemaud-us-Sanee* 1221 *Higeree.*

Preamble.

THE rules prescribed by Regulation I. 1798, for preventing fraud and injustice in conditional sales of land, under deeds of *bye-bil-wuffa*, or other deeds of the same nature, were declared to extend to Benares, as well as to the provinces of Bengal, Behar, and Orissa; and, under the terms of Section 2. of that regulation, might be considered, from the time of its publication, to have established the general limitation of interest at the legal rate of twelve "per cent. per annum." As however the provisions relative to a limitation of interest, contained in Regulation XV. 1793, and re-enacted for the ceded and conquered provinces by Regulation XXXIV. 1803, have never been expressly extended to Benares; and as it appears that the limitation of twelve per cent. per annum has not yet been considered in force within that province; it is necessary, that an express rule should be enacted for extending to Benares the same limitation of interest, and provisions connected therewith, as are in force throughout the other provinces under this presidency. It is further requisite, for the purpose of preventing improvident and injurious transfers of landed property, at an inadequate price, by the forfeiture of mortgages, accompanied with a condition of sale to the mortgagee, if the amount advanced be not repaid within a stated period, (which description of mortgage is common throughout the country, under deeds of *bye-bil-wuffa*, *kut-cubaleh*, and other similar designations,) that an equitable provision should be made for allowing a redemption of the estate within a reasonable and limited period, on payment of the principal sum lent; with interest thereupon, if the mortgagee shall not have been put in possession. The Governor General in Council has accordingly enacted the following rules, to be in force from the time of their promulgation, in the several provinces therein specified respectively.

Provisions of Regulation XV. 1793, extended to Benares, from the date herein specified, with certain modifications.

II. The provisions contained in the several sections of Regulation XV. 1793, are hereby declared to extend to the province of Benares, from the commencement of the ensuing year 1807 A. C. corresponding with the 19th Poos of the Bengal year 1213, and 7th Poos of the Fussily year 1214; subject to the following modifications.

What rates of interest to be decreed by the courts of civil judicature, if the cause of action have arisen before the period stated in the preceding section.

III. Instead of the limitations of interest specified in Sections 2. and 3, Regulation XV. 1793, if the cause of action shall have arisen before the period stated in the preceding section, the courts of civil judicature are to decree whatever rate of interest may have been voluntarily stipulated; or, if interest be payable in any case wherein a specific rate may not have been stipulated, according to the law and usage of the province; in conformity with the spirit of Section 9, Regulation VII. 1795; which directs, with respect to bills of exchange, receipts or notes of hand, that the custom of the country is to be abided by, and with respect to dealings and money transactions amongst *mahajons* and *shroffs*, that the established customs, observed

Laws and usages of the province, and the spirit of Section 9, Regulation VII. 1795, to be applied in certain cases.

observed and enforced amongst them, are to be adhered to by the courts in their inquiries and decisions.

What rate of interest to be adjudged, if the cause of action arise after the period specified in Section 2.

IV. If the cause of action shall arise after the period specified in Section 2. of this regulation, the courts are not to decree any interest above the rate of one per cent. per mensem, or twelve per cent. per annum.

The forfeiture of principal and interest in the cases herein specified, enacted by Section 8, Regulation XV. 1793, not to be considered applicable to *bonâ fide* loans contracted, or bonds executed, previously to the period specified in Section 2.

V. The forfeiture of interest for stipulation of a higher rate, than what is authorized, enacted by Section 8, Regulation XV. 1793; and the forfeiture of principal and interest, in cases of attempts to elude the prescribed rules, by deductions from the principal, or other devices, provided against by Section 9, Regulation XV. 1793, shall not be considered applicable to any loans actually and *bonâ fide* contracted, or to any bonds or other instruments voluntarily given for the evidence and security of such loans, previously to the period stated in Section 2. of this regulation.

Rule in Section 10, Regulation XV. 1793, to be considered in force throughout the province of Benares, from the beginning of the year 1214 Fussily, but not to be applied retrospectively in opposition to any engagement voluntarily contracted before the period fixed for the operation of this regulation.

VI. The rule contained in Section 10, Regulation XV. 1793, for the redemption of mortgaged property, whenever the principal sum lent, and the simple interest due thereupon, shall have been realized from the usufruct, is to be considered in force throughout the province of Benares, from the commencement of the Fussily year 1214; but shall not be applied retrospectively, in opposition to any subsisting engagement, voluntarily contracted before the period fixed for the operation of this regulation.

Provisions in addition to those made by Regulations I. 1798, and XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds herein specified.

VII. In addition to the provisions made in the provinces of Bengal, Behar, Orissa, and Benares, by Regulation I. 1798, and in the ceded and conquered provinces by Regulation XXXIV. 1803, for the redemption of mortgages and conditional sales of land, under deeds of *bye-bil-wuffa*, *kut-cubaleh*, or any similar designation; it is hereby provided, that when the mortgagee may have obtained possession of the land, on execution of the mortgage deed, or at any time before a final foreclosure of the mortgage, the payment, or established tender of the sum lent under any such deed of mortgage and conditional sale, or of the balance due, if any part of the principal amount shall have been discharged, or when the mortgagee may not have been put in possession of the mortgaged property, the payment, or established tender of the principal sum lent, with any interest due thereupon, shall entitle the mortgager and owner of such property, or his legal representative, to the redemption of his property, before the mortgage is finally foreclosed in the manner provided for by the following section, that is to say, at any time within one year (Bengal, Fussily, or Willaity, according to the era current where the mortgage may take place,) from and after the application of the mortgagee to the *zillah* or city court of *dewanny adawlut*, for foreclosing the mortgage, and rendering the sale conclusive, in conformity with Section 8. of this regulation: provided that such payment or tender be clearly proved to have been made to the lender and mortgagee, or his legal representative; or that the amount due be deposited, within the time above specified, in the *dewanny adawlut* of the *zillah* or city in which the mortgaged property may be situated; as allowed, for the security of the borrower and mortgager, in such cases, by Section 2, Regulation I. 1798, and Section 12, Regulation XXXIV. 1803; the whole of the provisions contained in which sections, as applied therein to the stipulated period of redemption, are declared to be equally applicable to the extended period of one year, granted for an equitable right of redemption by this regulation.

What shall entitle the mortgager or his legal representative to redemption of his property before the final foreclosure of the mortgage, at any time within the period of one year, from and after the period of the application made by the mortgagee, to the *zillah* or city court, for foreclosing the mortgage.

Proviso.

How a mortgagee or holder of a deed of conditional sale is to proceed, when desirous of foreclosing a mortgage, or rendering a conditional sale conclusive.

To present a petition in person, or by an authorized *vakeel*, to the judge of the *zillah* court.

How the judge is to proceed on receiving such petition.

VIII. Whenever the receiver or holder of a deed of mortgage, and conditional sale, such as is described in the preamble and preceding sections of this regulation, may be desirous of foreclosing the mortgage, and rendering the sale conclusive, on the expiration of the stipulated period, or at any time subsequent before the sum lent is repaid, he shall (after demanding payment from the borrower, or his representative) apply for that purpose, by a written petition, to be presented by himself, or by one of the authorized *vakeels* of the court, to the judge of the *zillah* or city in which the mortgaged land, or other property, may be situated. The judge, on receiving such written application, shall cause the mortgager, or his legal representative, to be furnished, as soon as possible, with a copy of it; and shall at the same time notify to him, by a *perwannah* under his seal and official signature, that if he shall not redeem the property mortgaged, in the manner provided for by the foregoing section, within one year from the date of the notification, the mortgage will be finally foreclosed, and the conditional sale will become conclusive.

A. D. 1810. REGULATION XIII.

A REGULATION *for expediting the Trial and Decision of Causes depending in the civil Courts; and for promoting the amicable Adjustment of Civil Suits.*—PASSED *by the Vice-President in Council, on the 4th May* 1810; *corresponding with the* 23*d Bysaak* 1217 *Bengal era; the* 15*th Bysaak* 1217 *Fussily; the* 24*th Bysaak* 1217 *Willaity; the* 1*st Bysaak* 1867 *Sumbut; and the* 29*th Rubee-ul-Awul* 1225 *Higeree.*

Preamble.

BY the regulations in force two judges of a provincial court of appeal, and of the court of Sudder Dewanny Adawlut, are required to form a court, competent to the decision of any original cause, or appeal; and it is provided that no decree, or final order, of those courts shall be valid, unless passed by two judges, present in court. An accumulation of appeals in many of the provincial courts, and the original jurisdiction vested in those courts by Regulation XIII. 1808, in all regular suits the cause of action in which may exceed five thousand sicca rupees, make it necessary that the rule above-mentioned should be modified to admit of daily sittings of the provincial courts, before one or more judges of those courts. A considerable addition to the general business of the court of Sudder Dewanny Adawlut, renders it equally expedient that a similar provision should be extended to that court. An accumulation of appeals from the decisions of the native commissioners, in many of the *zillah* and city courts, makes it further necessary to modify such part of the regulations in force as requires the judges of those courts to hear, themselves, all appeals from the decisions of the native commissioners, within their respective jurisdictions. And with a view to promote the amicable adjustment of civil suits, in all the courts of judicature, it is expedient to provide for a return of the institution fee, when such suits may be adjusted by *razeenamahs* filed before the pleadings are completed and read, or by returning a moiety of it when a *razeenamah* may be filed after the completion and perusal of the pleadings. The following rules are accordingly enacted, to be in force, as soon as promulgated, in the whole of the provinces immediately subject to the presidency of Fort William.

Modification of existing regulations, which require that two judges of a provincial court of appeal shall be necessary to hold a court.

II. *First.* Such part of the existing regulations as provides that two judges of a provincial court of appeal shall be necessary to hold a court of appeal, and that no decree of a provincial court shall be valid, unless passed by two judges present in court, is hereby declared subject to the following modification.

In what cases a single judge of the provincial court may hold a sitting of the court.

Second. Whenever, from the absence, or indisposition, of one or more of the judges of a provincial court of appeal, or from vacancy, or any other unavoidable cause, the regular sittings of a provincial court cannot be held before two or more judges of such court, it shall be competent to a single judge to hold the regular sittings of the court; and to pass orders, or judgment, in conformity with the regulations, subject to the following provisions.

Provision when the single judge may be of opinion, that a decision or order, appealed against, should be reversed, or altered.

Third. In the trial of appeals from the decisions, or orders, of the judges, assistant judges, or registers, of the *zillah* and city courts, if a single judge of the provincial court sitting upon the appeal, shall be of opinion that the decision, or order, appealed against, ought to be reversed, or altered, he shall not pass any decree or final order thereupon, until one or more of the other judges of the provincial court can sit with him upon the appeal in question.

Further privision, that no judge shall sit on an appeal from a judgment, or order, passed by himself.

Fourth. No judge of a provincial court shall sit on the trial of an appeal from a judgment, or order, passed by himself.

Decisions of a single judge, passed in conformity with the foregoing section, to have the same operation and effect as decisions of two or more judges of a provincial court.

III. Decisions of a single judge of a provincial court, passed in conformity with the foregoing section, shall have the same operation and effect, as decisions passed by two or more judges of a provincial court, under the regulations in force; and shall be considered appealable, or not, to the court of Sudder Dewanny Adawlut, according to the general rules prescribed by those regulations.

Rules contained in Regulation I. 1807, applicable to single judges of provincial courts holding sittings under the present regulation, with modifications.

IV. *First.* The rules contained in Regulation I. 1807, for defining the "duties to be performed, and powers exercised, by single judges of the provincial courts of appeal in the absence of the other judges of the court," shall be considered applicable to single judges of the provincial courts holding sittings under the present regulation, with the following modifications.

Sitting judge may perfect interlocutory decrees and orders passed in conformity with Section 2. of this regulation. Proviso, against alteration of decrees or order of any other judge or judges of the provincial court.

Second. The sitting judge may perfect interlocutory decrees and orders passed by himself in conformity with Section 2. of this regulation, or by any other judge or judges of a provincial court, in pursuance of the regulations in force. Provided that it shall not, in any case whatever, be competent to a single judge to reverse or alter the decree, or order, of any other judge, or judges of a provincial court.

In what cases the sitting judge may determine in the first instance, on admission, or rejection of appeals to the provincial courts.

Third. The sitting judge may determine, in the first instance, upon the admission or rejection of appeals to the provincial court, (excepting cases in which the judgment, or order, appealed from, may have been passed by himself,) subject to the appeal allowed by the regulations to the court of Sudder Dewanny Adawlut, in all cases wherein a provincial court may refuse to admit an appeal on the ground of delay, informality, or other default. The sitting judge may also determine on the admission or rejection of all applications for special appeals to the provincial court, except in cases wherein he may have himself passed the judgment, or order, appealed from.

Sitting judge may pass orders on admission of evidence, examination of witnesses, and other points connected with the trial of suits before the court, subject to the provision in Section 7, Regulation I. 1807.

Fourth. On the trial of an original cause instituted before a provincial court, as well as on the hearing of appeals to that court, it shall be competent to a single judge, holding a sitting of the court under this regulation, to pass such orders as he may deem just, and consistent with the regulations, respecting the admission of evidence, examination of witnesses, and all other points connected with the trial of the suit before the court, subject to the provision contained in Section 7, Regulation I. 1807; whereby the provincial court at large, or any two judges of the court, are declared at liberty to re-examine witnesses, whose depositions may have been taken before a single judge, if it appear requisite; to examine any other witnesses in the cause; and generally to pass any order that may appear proper and consistent with the regulations, whether in addition to, or in qualification, or abrogation of, any previous order of a single judge.

A single judge may commit, or hold to bail, for trial before a court of circuit, witnesses guilty of perjury in cases brought before him.

Fifth. In the event of a witness, in a case brought before a single judge under this regulation, appearing guilty of wilful perjury, as defined in Section 4, Regulation II. 1807, it shall be competent to the sitting judge to order that such witness be committed, or held to bail, for trial before the court of circuit.

Sitting judge may proceed, as the provincial court at large are empowered to proceed, upon miscellaneous petitions, under restrictions stated in this regulation.

Sixth. A single judge, holding a sitting of the provincial court under this regulation, may receive miscellaneous petitions, relative to matters depending before, or decided by any *zillah* or city court, in all cases wherein the provincial courts are authorized to receive such petitions; as well as all other petitions which the provincial courts are authorized by the regulations to receive; and to proceed thereupon as the provincial courts are empowered to proceed; under the restrictions stated in this regulation.

Rule for a daily sitting of the provincial courts under provisions of this regulation.

V. Under the provisions of this regulation, the sittings of the provincial courts shall be held daily (Sundays, established holidays, and authorized vacations excepted) before one or more of the judges of those courts, or if any circumstance, (except the intervention of Sundays, holidays, and vacations) should prevent a daily sitting for two days successively, the same shall be reported for the information of the Sudder Dewanny Adawlut.

Modification of existing regulations which provide that two judges of the

VI. *First.* Such part of the existing regulations, as provides that two judges of the court of Sudder Dewanny Adawlut shall be necessary to hold a court, and that no decree

or final order of the court shall be valid unless passed by two judges present in court, is hereby declared subject to the following modification.

Sudder Dewanny Adawlut shall be necessary to hold a court.

Second. Whenever, from the indisposition or absence of one or more of the judges of the Sudder Dewanny Adawlut, or from vacancy, or any other unavoidable cause, the regular sittings of that court cannot be held before two or more judges of the court, it shall be competent to a single judge of the Sudder Dewanny Adawlut to hold a sitting of that court, and to pass orders, or judgment, in conformity with the regulations, subject to the following provisions.

In what case a single judge of the Sudder Dewanny Adawlut may hold a sitting of that court.

Third. In the trial of appeals from decisions or orders of any provincial *zillah*, or city court, if a single judge of the Sudder Dewanny Adawlut, sitting upon the appeal, shall be of opinion, that the decision, or order, appealed against, ought to be reversed, or altered, he shall not pass any decree, or final order thereupon, until one or more of the other judges of the court can sit with him upon the appeal in question.

Proviso, when the single judge may be of opinion that a decision or order, appealed against, should be reversed, or altered.

Fourth. No judge of the Sudder Dewanny Adawlut shall sit upon the trial of an appeal from a judgment, or order, passed by himself.

Further provision, that no judge shall sit on an appeal from a judgment or order passed by himself.

VII. Decisions and orders of a single judge of the court of Sudder Dewanny Adawlut, passed in conformity with the foregoing section, shall have the same operation and effect, as decisions and orders passed by two or more judges of that court under the regulations in force.

Decisions and orders of a single judge of the Sudder Dewanny Adawlut, passed in conformity with foregoing section, to have the same operation and effect, as decisions and orders of the court at large.

VIII. *First.* A single judge of the Sudder Dewanny Adawlut, holding a sitting of that court, may perform the same duties, and exercise the same powers, as a single judge of a provincial court is authorized to perform and exercise, by Section 4. of this regulation, with the following modification of clause third.

A single judge of the Sudder Dewanny Adawlut may exercise the same powers, and perform the same duties, as the sitting judge of a provincial court.

Second. The sitting judge may determine, on the admission or rejection of all applications for appeals, whether regular or special, to the court of Sudder Dewanny Adawlut, except in cases, wherein the judgment, or order, appealed from may have been passed by himself.

And may determine on the admission or rejection of all applications for appeals; except in cases decided by himself.

Third. Provided that it shall not, in any case, be competent to a single judge of the Sudder Dewanny Adawlut to reverse, or alter, the decision or order, of two or more judges of the court.

A single judge restricted from reversing, or altering, in any case, the decision, or order, of two or more judges of the court.

IX.* First. *Such part of Section* 22, *Regulation XLIX.* 1803, *or of any other regulation in force, as requires the judges of the* zillah *and city courts to hear, themselves, all appeals from the decisions of the native commissioners within their respective jurisdictions, is hereby declared subject to the following modification.*

Modification of rule which requires that the judges of the zillah, *and city courts, shall hear all appeals from the decisions of the native commissioners.*

Second. *Whenever the number of appeals from the decisions of the* mofussil *native commissioners, in any* zillah *or city, may be such as cannot be speedily heard and determined by the* zillah *or city judge, without impeding the investigation and decision of other causes depending before him, he is authorized and required to refer such appeals for investigation and decision, to the* sudder ameen *appointed under Section* 9, *Regulation XLIX.* 1803, (*or in the ceded and conquered provinces under Section* 26, *Regulation XVI.* 1803,) *or to one of his law officers empowered to act as head referee, by Regulation XV* 1805.

In what case the judge may refer appeals from the mofussil *native commissioners to the* sudder ameen, *or to one of the law officers, empowered to act as head referee.*

Third. *In appeals referred under this section to a* sudder ameen, *or to a law officer acting as head referee, his decision upon the appeal shall be final; unless the* zillah *or city judge see ground to admit a special appeal, under the general provisions for special appeals, in all cases wherein a regular appeal is not open.*

Decree of the sudder ameen, *or law officer upon appeals so referred, to be final; subject only to the general provisions for special appeals.*

X. The sudder ameens, *and law officers acting as head referees, to whom appeals may be referred under the preceding section, shall, on deciding the same upon investigation of the merits of the case, be entitled to the same fee as they are allowed by the regulations in force upon the trial and decision of original suits. But no* sudder ameen, *or law officer, shall be entitled to receive any part of the institution fee upon appeals dismissed on account of the appellant's non-attendance, or any other default, or ground of nonsuit,*

Fee receivable by the sudder ameen, *or law officer, on deciding upon the merits of appeals referred to them under the preceding section.*

* Sections 9 and 10, are rescinded by Section 2, Regulation XXIII. 1814.

Not receivable upon appeals dismissed on default, or any ground of nonsuit, without a determination of the merits of the case.

Provisions in following section applicable in cases of adjustment by razeenamahs.

In what cases of adjustment, by *razeenamahs*, the entire institution fee is to be returned to the party who may have paid the same, or to his representative.

In what cases a moiety of the institution fee shall be returned.

nonsuit, without a determination of the merits of the case. When the cause in appeal may be adjusted by a razeenamah, *the provisions contained in the following section will be applicable.*

XI. First. With a view to encourage the adjustment of depending suits and appeals by *razeenamahs* of the parties, it is hereby declared that, in all instances, after the promulgation of this regulation, of the adjustment of an original suit, or appeal, by a *razeenamah*, filed before the pleadings are completed and read, whether the cause be depending before a native commissioner, *sudder* or *mofussil*, or before the judge, assistant judge, or register, of a *zillah* or city court, or before a provincial court, or the court of Sudder Dewanny Adawlut, the entire institution fee paid upon the cause so adjusted, shall be returned to the party who may have paid the same, or to his legal representative.

Second. In the event of the *razeenamah* being filed after the pleadings are completed and read, a moiety of the institution fee shall be returned to the party who may have paid the same, or to his legal representative; and the remaining moiety, if the cause be depending before a native commissioner, or the register of a *zillah* or city court, shall be paid to such officer, as provided by Sections 3 and 4, Regulation XLIII. 1803; and by Sections 7 and 11, Regulation XLIX. 1803.

A. D. 1813. REGULATION III*.

A REGULATION *for authorizing a Review in civil Cases appealable.*—PASSED *by the Governor General in Council, on the 3d April 1813; corresponding with the 22d Chyte 1219 Bengal era; the 18th Chyte 1220 Fussily; the 23d Chyte 1220 Willaity; the 2d Chyte 1870 Sumbut; and the 1st Rubbee-us-Sanee 1228 Higeree.*

Preamble.

WHEREAS *the power of granting a review in civil causes, vested in the Sudder Dewanny Adawlut by Section 3, Regulation II. 1798, and Section 37, Regulation V. 1803, is confined to cases, in which no appeal is allowed; and the ends of justice have been found to require, that the power aforesaid shall be extended to cases appealable; the following rules have been enacted, to be in force from the date of the promulgation of this regulation, throughout the whole of the provinces subject to the immediate government of the presidency of Fort William.*

Modification of Sections 2. and 3. of Regulation II. 1798; Section 22, Regulation II. 1803; Section 30, Regulation IV. 1803; and Section 37, Regulation V. 1803.

II. First. *Sections 2. and 3. of Regulation II. 1798; Section 22, Regulation II. 1803; and Section 30, Regulation IV. 1803; and Section 37, Regulation V. 1803, are declared subject to the following modification.*

The provision contained in the sections above quoted, extended to cases in which an appeal is allowed by the regulations in force, and by 21st Section of the Statute 21st George III. Cap. 70.

Second. *The provisions contained in the said sections, empowering the* zillah, *city, and provincial courts to make application to the Sudder Dewanny Adawlut, for authority to review their judgments, and enabling the Sudder Dewanny Adawlut to grant the same, and further to review their own judgments, are hereby extended to cases, in which an appeal is allowed by the regulations of Government, and by the 21st Section of the Statute 21st George III. Cap. 70.*

Applications for review of judgment to be preferred within three months.

III. First. *After the promulgation of this regulation, all applications for review of judgment shall be preferred within three calendar months, reckoning from the day on which the decree shall be delivered or tendered to the party praying the review, or his constituted pleader; or, in cases wherein the courts are not enjoined by the regulations to deliver or tender copies of their orders, within three calendar months from the period when the order, against which the review shall be prayed, shall have been duly notified to such party praying the review.*

In what cases applications for review may be admitted after the limited period of three months.

The courts are nevertheless authorized to admit applications for review after the elapse of the three months, provided the parties preferring the same shall be able to shew just and reasonable cause, to the satisfaction of the courts, for not having preferred such application within the limited period. But the courts are hereby enjoined to proceed with caution in admitting applications after the limited period, and shall in all such cases state at large upon their proceedings the reasons for the admission.

The courts how to admit the applications for review in cases decided before the promulgation of the present regulation.

Second. *The regulations cited in the preceding section containing no limitation of time for preferring applications to review; the courts, provided the stated grounds for review shall appear adequate, will admit such applications in cases decided before the promulgation of this regulation, whenever they may be satisfied, under all the circumstances, that no undue delay has occurred.*

The whole of this regulation is rescinded by clause first, Section 4, Regulation XXVI. 1814.

A. D. 1813. REGULATION VII.

A REGULATION *for extending to the ceded and conquered Provinces, the Provisions contained in Regulation III.* 1801, *and in Section* 13, *Regulation VIII.* 1794; *and for rescinding Parts of Sections* 11. *and* 14, *Regulation* 1. 1803.—PASSED *by the Governor General in Council, on the* 17*th July* 1813; *corresponding with the* 3*d Sawun* 1220 *Bengal era; the* 4*th Sawun* 1220 *Fussily; the* 4*th Sawun* 1220 *Willaity; the* 4*th Sawun* 1870 *Sumbut; and the* 18*th Rujeeb* 1228 *Higeree.*

Preamble.

WHEREAS a rule was enacted by Regulation III. 1801, for discouraging unfounded accusations of perjury, and subornation of perjury in the *zillah* and city courts, throughout the provinces of Bengal, Behar, Orissa, and Benares, (extended to Cuttack by Section 11, Regulation XIV. 1805;) and it has been deemed expedient, to extend the said rules to the ceded and conquered provinces; and whereas it is no longer considered necessary to continue the promulgate translations of the regulations, in the ceded and conquered provinces, in the Hindoostanee language; and whereas it is provided by Section 21, Regulation V. 1812, that the causes therein mentioned, shall be referred as soon as instituted to the collectors for their report, under the rule contained in Section 13, Regulation VIII. 1794, which last mentioned rule has not been extended to the ceded and conquered provinces: the following rules are accordingly enacted, to be in force, as soon as promulgated, throughout the provinces ceded by His Excellency the Nawaub Vizier; the conquered provinces lying on the right and left banks of the river Jumna; and the territory ceded by His Highness the Peishwa in Bundlecund.

Judges of *zillah* courts, empowered to refer certain rent or revenue accounts to the collectors for report.

II. *First.* In causes concerning rent or revenue, between proprietors of lands, or farmers of land holding their farms immediately of Government, and their respective dependant *talookdars*, under-farmers, or *ryots*; or between dependant *talookdars*, and their under-farmers or *ryots*; or between under-farmers, farming lands of proprietors of land, or of farmers of land, who farm their lands immediately of Government; or of dependant *talookdars* and their dependant *talookdars*, under-farmers, or *ryots*; or between other persons concerned in the collection or payment of land rents or revenues, either as principals or sureties; the judges of the *zillah* courts are empowered to refer to the collectors of their respective *zillahs* for their report, any accounts, the adjustment of which may be necessary towards the decision of the suit. The reference shall be made to the collector by a precept, under the signature of the judge, and the seal of the court, in which shall be specified, the accounts referred, and the papers which the judge may think it necessary to send in elucidation of them, and the time by which the report is to be made. The judge is further empowered to command the parties or their *vakeels*, and any witnesses they may have to produce, to appear before the collector, that he may examine them regarding the accounts, and to authorize the collector to administer the customary oaths (or a solemn declaration instead of an oath) to the witnesses; or to the parties, if the latter shall agree to be so examined. The collector shall submit his report on the accounts to the court, by the prescribed time, attested by his official seal and signature, or assign his reason for not having been able to complete it by the period directed. The judge, upon the receipt of the collector's report, shall either confirm, set aside, or alter, his adjustment of the accounts, or pass such decision respecting them, as may appear to him proper. But the rules in this section

are not to extend to empower the judge to refer to the collector any accounts relating to suits in which the collector, or any of his public officers, or private servants, or Government, may be a party.

The above rule applicable to suits instituted under Regulation V. 1812.

Second. Suits which may be instituted, under Regulation V. 1812, shall be referred, as soon as instituted, to the collectors for their report, under the rule contained in the preceding clause.

Magistrates not to receive charges of perjury.

III. The magistrates of the several *zillah* courts shall not receive any charges of perjury, which may be preferred by parties in civil suits, either against their own witnesses, or against the witnesses of the adverse party, or of subornation of perjury, against the adverse parties in such suits; and all individuals whose attendance is required in the civil courts, either as plaintiffs, defendants, or witnesses, are hereby declared not to be liable to any prosecutions of this description, unless they shall be committed to take their trial by the *zillah* judge, under the authority vested in him by Section 8, Regulation III. 1803.

Individuals attending in civil causes, not liable to prosecutions for perjury, unless committed for trial by the judge.

Parts of Sections 11 and 15, Regulation I. 1803, requiring translations of the regulations into the Hindoostanee language, rescinded.

VI. Such parts of Sections 11 and 15, Regulation I. 1803, (extended to the conquered provinces and the territory ceded by the Peishwa in Bundlecund by Section 2, Regulation VIII. 1805,) as direct, that the regulations passed in conformity with Section 2. of the said regulation, shall be translated and printed in the Hindoostanee language, are hereby rescinded. Such regulations shall, in future, be translated and printed in the Persian language only, for distribution in the provinces and territory aforesaid. The publication of Hindooee translations having been discontinued, for some time previously to the enactment of this regulation, it is further provided, that such omission shall not be allowed as a plea against the validity of any existing regulation.

Such regulations to be translated and printed in future in the Persian language only.

A. D. 1814. REGULATION II.

A REGULATION *for modifying the Rules before established for the Trial of Suits, proposed to be instituted against any of the Public Officers, who have been declared amenable, for Acts connected with the Discharge of their official Duties, to the Jurisdiction of the Courts of Civil Judicature.—Passed by the Governor General in Council, on the 29th January* 1814; *corresponding with the 17th Maug* 1220, *Bengal era; the 23d Maug* 1221 *Fussily; the 18th Maug* 1221 *Willaity; the 8th Maug* 1870 *Sumbut; and the 6th Suffer* 1229 *Higeree.*

Preamble.

WHEREAS it is enacted in Sections 2. and 3, Regulation VIII. 1806, that whenever a suit may be proposed to be instituted against a collector or any other public officer, amenable for acts connected with his official duties to the jurisdiction of the *zillah* or city court, the provincial court, or Sudder Dewanny Adawlut, the court by which the plaint may be received, shall transmit it to the Governor General in Council, who after making such inquiry through the channel of the Board of Revenue, Board of Commissioners, Board of Trade, or other public authority as may be judged proper, will determine whether the redress solicited shall be granted by Government, or whether the complainant shall be left to seek his remedy in the regular course of law, and in the latter case whether the suit should be defended on the part of Government as a public action, or by the person affected by the complaint in his individual capacity: And whereas inconvenience has been experienced from the delay incident to that course of proceeding, and from its tendency to multiply references to the public authorities; the following rules have been enacted, to be in force from the period of their promulgation throughout the provinces immediately dependant on the presidency of Fort William.

II. Sections 2. and 3, Regulation VIII. are hereby rescinded.

Sections 2. and 3, Regulation VIII. 1806, rescinded.

III. *First.* Whenever a petition of complaint may be preferred against a collector of the land revenue or customs, a commercial resident, salt agent, or opium agent, or other person amenable for acts connected with his official duties, to any court of civil judicature competent to receive and try such cases, the judge or judges of such court shall transmit the petition so received to the Board of Revenue, Board of Commissioners, or Board of Trade, according as the person against whom the complaint may be preferred, may be subject to either of those authorities.

Whenever a petition of complaint may be preferred against a collector or other person for acts connected with his official duties, the judge or judges of the civil court by whom the petition may be received, is to transmit it to the Board to whose authority the person complained against may be subject.

Second. The Board of Revenue, Board of Commissioners, or Board of Trade, on receipt of any petition of the nature described in the preceding clause, shall immediately take the circumstances stated therein into their consideration, in order to judge whether the redress solicited should be granted directly by Government, or whether the complainant should be left to prosecute his suit in the regular course of law.

The Boards, on receipt of any such petition, to determine whether the redress solicited should be granted directly by Government, or whether the complainant should be left to prosecute his suit in the regular course of law.

Third. Should the Board of Revenue, Board of Commissioners, or Board of Trade be of opinion, after making due inquiries on the subject, either by consulting their own records, or by a reference to the local authorities, or in any other mode which may be judged advisable, that the party complaining has been actually aggrieved, and that he is entitled to redress directly from Government, they shall submit the necessary report on the subject, accompanied with their opinion, as to the nature and extent of the relief which should be granted.

The Boards how to act when the party complain-

ing may be actually aggrieved, and may appear entitled to redress from Government.

And how to act in case the complainant should be left to prosecute the suit in the regular course of law.

Fourth. Should the Board of Revenue, Board of Commissioners, or Board of Trade be of opinion, after making due inquiries on the subject, that the party complaining should be left to prosecute the case in the regular course of law, they shall inform the judge or judges of the court from whom the petition may have been received of the result of their deliberations on that point; and such communication shall be deemed sufficient authority for the formal institution and trial of the suit in question. The Boards aforesaid shall at the same time determine whether the suit should be defended by the public officers as an action against Government, or by the person affected by the complaint in his individual capacity, and shall inform the judge or judges by whom the case may have been referred to them of their decision on this point accordingly.

The provisions of this regulation only applicable to cases mentioned in Sections 2. and 3, Regulation VIII. 1806, and not to charges mentioned in Regulation XVII. 1813.

IV. In order to prevent misconstruction, it is hereby declared, that the foregoing provisions are only intended to apply to cases of the description of those mentioned in Sections 2. and 3. Regulation VIII. 1806, and are not to be considered applicable to charges of corruption, for the receipt and trial of which separate provisions have been established by Regulation XVII. 1813.

A. D. 1814. REGULATION XXIV.

A REGULATION *for abolishing the Office of Assistant Judge of the Zillah and City Courts, and for making certain Modifications in the Constitution and Jurisdiction of those Courts.*—PASSED *by the Vice-President in Council, on the 29th November* 1814; *corresponding with the 15th Aughun* 1221 *Bengal era; the 2d Aughun* 1222 *Fussily; the 16th Aughun* 1222 *Willaity; the 2d Aughun* 1871 *Sumbut; and the 16th Zeheija* 1229 *Higeree.*

Preamble.

WHEREAS it has been deemed expedient to abolish the office of assistant judge, and to make certain modifications in the constitution and jurisdiction of the *zillah* and city courts: and whereas it will contribute to the public convenience to provide for the occasional appointment of two or more registers of a *zillah* or city court, and to authorize the establishment of the register's courts at a place or places not being the fixed station of the judge and magistrate: and whereas the decision of civil suits will be expedited by vesting one or more of the registers of a *zillah* or city court, with certain special powers in the trial and determination of regular and summary civil suits, in cases in which such an arrangement may be deemed requisite; the following rules are hereby enacted, to be in force from the 1st of February 1815, throughout the territories immediately dependant on the presidency of Fort William.

Rules rescinded.

II. Sections 2, 3, 4, 5, 6, 7, 8, 20, 21, 22, 23. 24, 25, 26, and 27, Regulation XLIX. 1803, and the corresponding rules contained in clauses fifth, sixth, and seventh, Section 6, in Sections 11, 12, and 16, and in clauses second, third, and fourth, of Section 17, Regulation VIII. 1805, are hereby rescinded.

The office of assistant judge abolished.

III. From and after the 1st of February 1815, the office of assistant judge in the *zillah* and city courts shall be abolished. Any civil suits which may be depending on that date before the assistant judges, shall be tried and determined by the *zillah* or city judges, or shall be referred for trial and decision to the registers, or *sudder ameens*, in cases in which such references may be authorized by the regulations. The allowances granted to assistant judges, and to the native officers on their establishments, shall cease and determine from the 1st of February 1815.

Rules regarding the appointment of registers of the zillah *and city courts.*

IV. No person shall be hereafter deemed qualified to hold the office of register of a* zillah *and city court, or of a provincial court, or of register or deputy register of the Sudder Dewanny Adawlut, unless he shall have obtained a certificate from the Council of the College of Fort William, signifying, that he is duly qualified to enter upon the public service, in conformity with the statutes of the college.*

Rules regarding the appointment of judges and magistrates of the zillah *and city courts.*

V. No person shall be hereafter deemed qualified to be appointed to the situation of judge and magistrate of any zillah *or city court, unless he shall have previously officiated as assistant judge or register, or as joint or assistant magistrate, for a period not being less than three years; or unless he shall have been employed in other situations in the judicial department, or in any offices imposing the discharge of judicial functions, either of a criminal or civil nature, for a total period not being less than three years.*

* Sect. 4. and 5. are rescinded by Section 8, Regulation IV. 1823.

Jurisdiction of *zillah* or city judges in the trial of original regular suits.

VI. *First.* The *zillah* and city judges are authorized to try and determine original civil suits depending in their courts, which may have been heretofore instituted, in conformity with the regulations. They are also authorized to try and determine any civil suits, which may be hereafter regularly instituted in their courts, provided the value or amount of the claim, calculated according to the provisions of Section 14, Regulation I. 1814, shall not exceed five thousand sicca rupees.

And in the trial of appeals.

Second. An appeal shall lie to the *zillah* or city judge from all decisions which may be passed on the trial of original suits by the *moonsiffs*, *sudder ameens*, and registers of each *zillah* or city jurisdiction; provided however, that this rule shall not be construed to extend to any suits, which may be tried and decided by a register under the provisions of clause sixth, Section 9. of this regulation.

Proviso.

And in the trial of second or special appeals.

Third. The *zillah* and city judges are further authorized to admit a second or special appeal, from the judgments passed by registers in appeals referred to them under clause fourth, Section 9. of this regulation, as well as from the judgments of *sudder ameens*, on appeals referred to them from the original decisions of *moonsiffs*; in receiving and trying such special appeals, the *zillah* and city judges are to be guided by the rules contained in Section 2. of Regulation XXVI. 1814.

Zillah and city judges prohibited from referring certain suits to the *sudder ameens.*

VII. *First.* From and after the 1st of February 1815, the *zillah* and city judges are prohibited from referring to a *sudder ameen* any suit, in which a British European subject, or an European foreigner, or an American, may be a party; this rule however is not intended to preclude the *sudder ameens* from trying and deciding any suits of the above description, which may have been referred to them previously to the 1st of February 1815.

But may refer all other original regular suits not exceeding 150 Sa. Rs. in amount to the *sudder ameens.*

Second. With the preceding exception, the *zillah* and city judges are authorized to refer to the *sudder ameens* for trial and decision in the first instance, any depending civil suits, in which the value or amount of the claim, calculated according to the provisions of Section 14, Regulation I. 1814, may not exceed one hundred and fifty sicca rupees. Such suits shall be tried and determined by the *sudder ameens* in conformity with the provisions of Regulation XXIII. 1814.

An appeal shall lie to the *zillah* or city judge from decisions of *sudder ameens* in such suits.

Third. From all decisions passed by a *sudder ameen* on such original suits, an appeal shall lie to the *zillah* and city judge, under the general rules in force regarding the admission of appeals; and the decision of the judge on such appeal shall be final, unless the provincial court shall see sufficient cause for admitting a special appeal, under the rules and restrictions contained in Section 2. of Regulation XXVI. 1814.

Appeals from the judgments of *moonsiffs* may be referred to the *sudder ameens.*

Fourth. The *zillah* and city judges are further empowered to refer to the *sudder ameens* any appeals, which may be admitted from the original decisions of *moonsiffs*. In the trial of such appealed suits, the *sudder ameens* shall be guided by the provisions of Section 75, Regulation XXIII. 1814, and their judgments upon them shall be final, unless the *zillah* and city judges shall see sufficient reason to admit a special appeal, under the rules and restrictions contained in Section 2. of Regulation XXVI. 1814.

What suits may be referred to registers.

VIII. *First.* The judges of the *zillah* and city courts are authorized to refer to their registers for trial and decision in the first instance, any original depending suits, in which the value or amount of the claim, calculated according to the provisions of Section 14, Regulation I. 1814, may not exceed five hundred rupees. In the trial of all causes referred to the registers of the *zillah* and city courts under this clause, they shall be guided by the general provisions in force for the trial of civil suits in the *zillah* and city courts.

What fees shall be paid to registers on deciding such suits.

Second.* *On all suits referred to registers under the preceding clause, or under the regulations heretofore in force, which may be decided by them subsequently to the 1st of February 1815, the registers shall be entitled to receive one moiety of the institution fee, or of the amount of the stamp duty substituted for such institution fee by Regulation I. 1814.

Registers not entitled to any fee on nonsuits.

Third. *Provided however, that the registers shall not be entitled to receive any fee or remuneration on causes, which may be dismissed by them from the non-attendance of the*

Rescinded by Section 13, Regulation II. 1821.

plaintiff, or upon any other ground of nonsuit or default, without a determination on the merits of the suit.

Fourth. *Provided further, that in suits depending before a register, which may be adjusted by* razeenamah, *previously to the pleadings being completed and read, the register shall not be entitled to any fee; but the whole of the institution fee, or of the stamp duty substituted for such institution fee by Regulation I.* 1814, *shall be returned to the party who may have paid the same, or to his legal representative.*

Registers not entitled to receive any fee on cases adjusted by razeenamah, *before the pleadings shall have been read.*

Fifth. *If the* razeenamah *shall be filed after the pleadings have been completed and read, a moiety only of the institution fee, or of the stamp duty substituted for such institution fee, shall be returned to the party who may have paid the same, or to his legal representative; and the register shall be entitled to receive the remaining moiety of such institution fee or stamp duty.*

But shall receive a certain fee, when the razeenamah *shall be filed after the pleadings may have been read.*

Sixth. An appeal shall lie to the *zillah* or city judges from all decisions passed by registers in suits referred to them under this section, provided the appeal be preferred in conformity with the general rules and conditions prescribed for the admission of such appeals.

An appeal shall lie to the judge from decisions passed by registers in suits referred to them under this section.

Seventh. In lieu of the rules contained in Section 8, Regulation XLIX. 1803, it is hereby declared, that the decrees which may be passed by the *zillah* and city judges on such appeals subsequently to the 1st February, 1815, shall be final, whatever may be the amount adjudged or disallowed by them, unless the provincial court should see sufficient reason for admitting a special appeal from such decisions under the provisions of Section 2, Regulation XXVI. 1814.

And the decision of the judge on such appeals shall be final.
Exception.

IX. *First.* Exclusively of the ordinary jurisdiction of registers of the *zillah* and city courts, as explained in the preceding section, the Governor General in Council shall be deemed competent to invest the register of any *zillah* or city court with special additional powers, in the trial and decision of regular civil suits, under the following rules.

Registers may be invested with further additional powers in the trial of suits.

Second. Whenever the accumulation of civil suits, or the arrears of business depending in any *zillah* or city court, may render it impracticable for the judge of such court to try and determine the suits depending before him with sufficient promptitude and despatch, and the court of Sudder Dewanny Adawlut may be of opinion, either in consequence of a report from the judge of such *zillah* or city, or from any other information before them, that the register of such *zillah* or city court is duly qualified by his experience, industry, and abilities, to be entrusted with the whole or any part of the special powers described in clause fourth and sixth of this section, the Sudder Dewanny Adawlut shall communicate their sentiments on the subject to Government, accompanied by a statement of the number of civil suits of every description depending respectively before the judge and the register of such *zillah* or city court.

The Sudder Dewanny Adawlut to report to Government when such further powers may be requisite.

Third. On the receipt of such report from the Sudder Dewanny Adawlut, or upon any other information before Government, it shall be competent to the Governor General in Council to invest such register with the whole or any part of the special powers described in the following clauses of this section; and information shall be communicated, in every instance in which such powers may be vested in a register, to the Sudder Dewanny Adawlut, to the provincial court of the division, and to the *zillah* or city judge.

Mode of granting such powers to a register.

Fourth. The register may be specially empowered to try and determine any depending suits in appeal from the original decisions of *moonsiffs* or of *sudder ameens*, which the *zillah* or city judge may think proper to refer to him: the decision of the register on such appeal shall be final, unless the *zillah* or city judge shall see sufficient reason for admitting a second or special appeal under the provisions contained in Section 2, Regulation XXVI. 1814.

Appeals from the decisions of *moonsiffs* and *sudder ameens* may be referred to registers, whose decisions on them shall be final.
Exception.

Fifth. On suits which may be referred to a register under the foregoing clause, and which may be decided by him on an investigation of the merits, the register shall be entitled to receive the full amount or value of the institution fee, or of the stamp duty*

What fees the register shall receive for deciding such suits.

* This clause is rescinded by Section 13, Regulation II. 1821.

substituted for such fee by Regulation I. 1814, subject to the provisions contained in clauses third, fourth, and fifth, of the preceding section.

Original suits exceeding 500 rupees in amount may be referred to registers.

Sixth. The register may be further specially empowered to try and decide any suits exceeding five hundred rupees in value or amount, originally instituted in the *zillah* or city courts, which the judge of such court may think proper to refer to him. In the trial of all causes, which may be referred to a register under this clause, or under clause fourth of this section, the register is to be guided by the rules which are prescribed for the trial of similar causes before the judges of the *zillah* and city courts.

What fees the register shall be entitled to receive on deciding such suits on an investigation of the merits.

Seventh*. *On every suit, which may be referred to a register under the preceding clause, and which may be decided by him on an investigation of the merits, the register shall be entitled to receive a fee of sixteen rupees; but the register shall not be entitled to receive any fee or remuneration on such suits, which may be dismissed from the non-attendance of the plaintiff, or upon any other ground of nonsuit or default, without a determination on the merits of the suit.*

But shall receive no fee in cases adjusted by razeenamah *before the pleadings may have been read.*

Eighth. *When a suit referred to a register under clause sixth of this section may be adjusted by* razeenamah *previously to the pleadings being completed and read, the register shall not be entitled to receive any fee, but the whole of the institution fee, or of the stamp duty substituted for such fee, shall be returned to the party who may have paid the same, or to his legal representative.*

But shall receive eight rupees when the razeenamah *may be filed after the pleadings shall have been read.*

Ninth. *If the* razeenamah *shall be filed after the pleadings are completed and read, a moiety of the institution fee, or of the stamp duty substituted for such fee, shall be returned to the party who may have paid the same, or to his legal representative, and the register shall be entitled to receive a fee of eight rupees from the amount of the remaining moiety.*

An appeal shall lie to the provincial court from decisions passed by registers in such suits.

Tenth. From all decisions passed by a register on suits referred to him under clause sixth of this section, an appeal shall lie to the provincial court, in the same manner, and under the same provisions, as if such suits had been tried and determined in the first instance by the *zillah* or city judge.

Processes and communications to a register from a provincial court how to be issued.

Eleventh. In cases, in which an appeal may lie to the provincial court from the original decision of a register under clause sixth of this section, as well as in all cases in which a provincial court may have occasion to issue process regarding causes decided by or depending before a register, such process shall be transmitted to the judge of the *zillah* or city, who shall forward the same to the register; or shall himself comply with the exigency of it, if from absence or any other sufficient cause the register may be prevented from so doing. In like manner, all returns and communications from a register to a provincial court, or to any other court, authority, or office, shall be made through the judge of the *zillah* or city in which such register may be employed.

Special powers not to be exercised by registers without the previous sanction of Government, and such powers may at any time be revoked by the Governor General in Council.

Twelfth. Upon the death, removal, or resignation of any register, who may have been invested with special powers under the provisions of this regulation, the person succeeding to the office of register, shall in no case be entitled to exercise such special powers without the previous sanction of the Governor General in Council; and it shall at all times be competent to the Governor General in Council, to revoke the special powers which may have been entrusted to the register of a *zillah* or city court under this section, either in consequence of the arrears of depending business having been sufficiently reduced, or for any other cause, which in the opinion of the Governor General in Council may render the adoption of that measure expedient.

Judges may recal suits referred to registers or to *sudder ameens.*

X. The judges of the *zillah* and city courts are at all times authorized to recal from the registers, and from the *sudder ameens*, any depending suits, which may have been referred to them under the present or former regulations, and which for the more speedy administration of justice, or for any other reason, the *zillah* or city judges may deem it proper to determine themselves in the first instance, or to refer to any other competent authority.

Powers vested in the *zillah* and city judges with regard to the mode

XI. *First.* The judges of the *zillah* and city courts are authorized to employ their registers and assistants in signing and issuing any process of court, to which the signature

* Clauses 7. to 9. rescinded by Section 13, Regulation II. 1821.

of the judge may not be specially required by any regulation. They are further authorized to employ their registers and assistants, or any of their principal native officers, in taking down the depositions of witnesses, whom they may not have time to examine *vivâ voce* themselves; provided, that such depositions be taken in open court in the presence of the parties, or their authorized pleaders, whose attestations shall be subscribed to all depositions so taken, in testimony of their having been present; and if any question or dispute shall arise in taking the deposition of a witness so examined, the judge shall, as soon as may be practicable, inquire into the question, and shall pass such order as may appear to him to be proper.

Of signing processes and examining witnesses.

Second. The registers of the *zillah* and city courts may in like manner cause the depositions of witnesses, in suits referred to them, to be taken before their assistants, or before any of their principal native officers, whenever the adoption of that measure may appear to be indispensably necessary for the speedy determination of such suits.

And in registers.

XII. *First.* Such parts of the rules in force as require that the registers of the *zillah* and city courts shall hold their sittings for the trial of civil suits referred to them in the court-house of the *zillah* or city *dewanny adawlut*, and that all process, which it may be necessary to issue in such suits, shall be issued under the seal of the *zillah* or city court, and be executed by the officers of that court, are hereby declared subject to the following modifications.

Rules requiring registers to hold their courts at the *sudder* station of the *zillah* or city, modified.

Second. It shall be competent to the Governor General in Council to appoint one or more registers in any *zillah* or city court, in addition to the person holding that office under the established constitution of the courts. Such additional registers shall be denominated second, or third register, and shall possess the same powers and perform the same duties as the registers to the *zillah* and city courts under the regulations in force, and the following provisions of this section.

Additional registers may be appointed in a *zillah* or city jurisdiction.

Third. It shall further be competent to the Governor General in Council to station the register or registers at any place or places within the jurisdiction of a *zillah* or city court of *dewanny adawlut*; and whenever a register may be stationed at any place, not being the *sudder* station of the *zillah* or city court, the sittings and proceedings of such registers shall be held in a convenient and open court-room, to be provided for that purpose at such place as Government may direct.

Registers may be stationed at other places than at the fixed station of the *zillah* or city court.

Fourth. When the register may be stationed at any place, not being the station of the *zillah* or city *dewanny adawlut*, all process which it may be necessary to issue in suits referred to, or in matters cognizable by such register, shall be issued under the official seal and signature of the register, and shall be executed by the officers specially appointed for that purpose, in concurrence with the officers of the *zillah* or city court, in cases in which their aid may be requisite.

Register's processes how to be issued in such cases.

Fifth. The judges of the *zillah* or city courts, and the public officers acting under them, are required to aid and support the execution of any process which may be issued by the registers in the mode prescribed; and any disobedience or resistance to process so issued, is hereby declared to be liable to the same penalties as disobedience or resistance to the process of a *zillah* or city court.

Penalty for disobedience to the process of a register in such cases.

Sixth. The judicial powers of a register, who may be stationed at a place not being the station of the *zillah* or city *dewanny adawlut* under the provisions of this section, shall be the same as those of the registers employed at the station of the *zillah* or city courts, viz. to try and decide, according to the regulations in force, any suits or matters which may be referred to them by the *zillah* or city judges, and which may be cognizable by such registers, either in their ordinary jurisdiction, or under the special powers with which they may be vested in conformity with Section 9. of this regulation.

What powers shall be in a register so stationed.

Seventh. Provided however, that it shall be competent to the Governor General in Council, to invest any register, who may be stationed under the provisions of this regulation at a place not being the station of the *zillah* or city *dewanny adawlut*, with original jurisdiction within local defined limits, in the cognizance and trial of summary suits for the reco-

Proviso with regard to summary suits.

very of arrears of revenue, and in all other cases in which a summary action is allowed by the regulations in force.

Rules for receiving and trying such summary suits.

Eighth. In receiving and trying such summary suits, the register shall possess the same authority, and shall proceed in the same manner, as if the case had been referred to him by the *zillah* or city judge. The decisions of the register on such suits shall be appealable or not, according to the established rules for appeals which may be applicable to the case.

What regular suits shall be generally referred to registers, stationed at any other place than the *sudder* station of the *zillah* or city.

Ninth. In referring regular civil suits or appeals for trial and decision to a register, stationed at any other place than the fixed station of the *zillah* or city *dewanny adawlut*, and who may also have been entrusted with a local jurisdiction as joint or assistant magistrate, the judge shall generally select, in preference to others, depending suits or appeals, in which the cause of action may have arisen, or the parties may reside, within the local jurisdiction entrusted to such register in his capacity of joint or assistant magistrate.

Reports to be furnished by registers so stationed.

Tenth. The monthly, half yearly, or other periodical reports, which are prescribed by the regulations, shall be furnished by such registers to the judges of the *zillah* or city courts in whose jurisdiction they may be employed, in order that such reports may be incorporated with those which the *zillah* and city judges are required to furnish to the provincial courts, and to the Sudder Dewanny Adawlut.

Through what channel the correspondence of such registers shall be conducted.

Eleventh. All official correspondence or communications addressed by such registers to the courts of justice or to other public authorities, shall be transmitted through the channel of the respective judges of the *zillah* or city courts, except in instances which may appear to require immediate despatch. But in all cases in which such registers may find it necessary to transmit any official communication to a court or other public authority, in any other mode than through the *zillah* or city judge, they shall forward a copy of such communication with as little delay as possible for the information of the *zillah* or city judge.

Instructions to be furnished by the Sudder Dewanny Adawlut in cases not provided for by regulations.

Twelfth. In all matters of form or practice, relative to the proceedings of a register stationed at any place not being the fixed station of the *zillah* or city court, under the foregoing provisions, for which no express rule may be prescribed in this or any other regulation, the register shall be guided by the instructions of the court of Sudder Dewanny Adawlut.

A. D. 1814. REGULATION XXVI.

A REGULATION *for modifying some of the Rules at present in Force, regarding the Admission and Trial of special and summary Appeals from Decisions passed in regular Suits; for limiting and altering some of the existing Provisions respecting the Pleadings and Processes, and the Mode of executing Decrees in regular Suits and Appeals; and for explaining and making certain Additions to the Provisions of Regulation I.* 1814.—PASSED *by the Vice-President in Council, on the* 29*th November* 1814; *corresponding with the* 15*th Aughun* 1221 *Bengal era; the* 2*d Aughun* 1222 *Fussily; the* 16*th Aughun* 1222 *Willuity; the* 2*d Aughun* 1871 *Sumbut; and the* 16*th Zeheija* 1229 *Higeree.*

Preamble.

WHEREAS it has become requisite, with a view to the more speedy administration of civil justice, that the rules at present in force, regarding the admission and trial of special and summary appeals from decisions passed in regular civil suits, should be modified; and that some of the provisions in force regarding the pleadings and processes, and the mode of executing decrees in regular civil suits and appeals should be altered; and whereas it is expedient to remove certain doubts, which have arisen on the construction of some of the rules now in force regarding the mode of raising a revenue by means of stamps, and to make certain additions to the provisions of Regulation I. 1814, the following rules have been enacted, to be in force from the 1st of February 1815, throughout the territories immediately subject to the presidency of Fort William.

Provisions in modification of the rules in force regarding the mode of admitting special appeals.

II. *First.* In modification of the provisions contained in Section 24, Regulation XLIX. 1803, Section 10, Regulation II. 1805, and clauses second and third, Section 9, Regulation VIII. 1805, it is hereby enacted, that from and after the 1st of February 1815, no special or second appeal shall be admitted by a *zillah* or city judge, by a provincial court, or by the Sudder Dewanny Adawlut, unless upon the face of the decree, or of documents exhibited with it (assuming all the facts of the case as stated in the decree), the judgment shall appear to be inconsistent with some established judicial precedent, or with some regulation in force, or with the Hindoo or Mahomedan law, in cases which are required to be decided by those laws, or with any other law or usage which may be applicable to the case, or unless the judgment shall involve some point of general interest, or importance, not before decided by the superior courts.

Party to present a petition to the court competent to admit such special appeal.

Second. When a party upon any of the grounds specified in the preceding clause may be dissatisfied with a judgment passed on a regular appeal, by a competent civil court, and may in consequence be desirous of obtaining a further investigation of the suit by a second or special appeal, he shall, within the limited periods prescribed for the admission of regular appeals, present a petition to the court, which under the provisions of Regulations XXIV. and XXV. 1814, may be competent to admit a special appeal in the case.

Such petition to be written on stampt paper of what description, and what it is to contain.

Third. Such petition shall be written upon the stampt paper prescribed in Section 13, Regulation I. 1814, with reference to the value or amount of the suit, calculated according to the provisions of Section 14. of that regulation, or any provisions which may be hereafter enacted for the valuation of property sued for in the civil courts; the petition shall state distinctly the specific ground or grounds under clause first of this section on which

the special appeal is solicited, and shall be presented either by the party in person, or by an authorized pleader of the court. In the latter case, the petition shall be signed by the pleader, who shall certify on the back of the petition, that he has duly considered the grounds stated for admitting a special appeal under clause first of this section, and believes them to be well founded and sufficient.

Mode of proceeding when a special appeal may be admitted.

Fourth. If on a consideration of the circumstances of the case, the court shall see reason for admitting a special appeal on any of the grounds stated in the first clause of this section, the appellant shall be required to furnish the prescribed security, and to deposit the amount of the fees payable to his pleader under the rules in force, within a reasonable period to be fixed by the court: when the required security and deposit shall have been duly furnished, the court will admit the special appeal, and proceed to investigate the suit, under the same rules as are prescribed for the trial and determination of regular appeals.

Courts authorized to refund a portion of the stamp duty in certain cases, when the petition for a special appeal may be rejected.

Fifth. If the court shall not see sufficient reason for admitting the special appeal, and shall in consequence reject the petition, the appellant shall not be entitled to receive back the amount or value of the stamp on which the petition may have been written under clause third: the courts are however vested with a discretionary authority, in any particular instance of hardship, to refund any portion not exceeding three-fourths of the amount of such stamp duty to the party who may have paid the same, or to his legal representative.

All orders passed by competent courts regarding special appeals to be final.

Sixth. It is hereby declared, that the order of a *zillah* or city judge, or of a provincial court, refusing to admit a special or second appeal under the powers vested in them by this regulation, as well as the judgments which they may respectively pass on special appeals admitted by them, shall in all cases be final, and shall not be liable to any further revision by a superior court.

Pleaders entitled to certain fees on the rejection of special appeals.

Seventh. When an application for a special appeal, presented through an authorized pleader to a *zillah* or city court, a provincial court, or to the Sudder Dewanny Adawlut, may be rejected by the court, such pleader shall be entitled to receive from the party employing him any remuneration for his trouble, which the court may think proper to adjudge; provided that such remuneration shall in no case exceed one-fourth of the amount of the fee, to which the pleader would have been entitled, had the special appeal been admitted, and determined by the court: nothing in this section shall be understood to affect any special appeals, which may have been already admitted, and which may be admitted previously to the 1st of February 1815, by the *zillah* or city judges, the provincial courts, or the Sudder Dewanny Adawlut.

Provisions rescinded.

III. *First.* Sections 8. and 9, Regulation II. 1801; Section 12, Regulation IV. 1803; Section 26, Regulation XLIX. 1803; and Section 11, Regulation II. 1805, are hereby rescinded, and the following provisions are enacted in their stead.

Cases in which the Sudder Dewanny Adawlut may admit a summary appeal.

Second. It shall be competent to the Sudder Dewanny Adawlut to receive a summary appeal from the orders or decrees of the provincial courts, in all cases in which the latter may have refused to admit an original suit or appeal, regularly cognizable by them; or having admitted such suit or appeal, may have dismissed it on the ground of delay, informality, or other default, without an investigation of the merits of the case.

Cases in which the provincial courts may admit a summary appeal.

Third. In like manner it shall be competent to a provincial court to receive a summary appeal from the orders or decrees of the *zillah* or city courts, in cases in which the latter may have refused to admit an original suit or appeal, regularly cognizable by them; or having admitted such suit or appeal, may have dismissed it without an investigation of the merits, on the ground of delay, informality, or other default.

Cases in which the *zillah* or city judges may admit a summary appeal.

Fourth. On the same principle, it shall be competent to the *zillah* or city judges to receive a summary appeal from the orders or decrees of a register or *sudder ameen*, in cases in which the register or *sudder ameen* may have dismissed, on the ground of some default, and without an investigation of the merits of the case, any original suit or appeal regularly referred to them.

Limitation of time for the admission of summary appeals.

Fifth. In all the preceding cases, the summary appeal shall be preferred within the same limited period as is prescribed for the admission of regular appeals, and subject to the provisions contained in the following clauses.

Sixth. Whenever a party may be desirous of preferring a summary appeal in the cases above mentioned, he shall appear either in person, or by a *vakeel* duly authorized, before the court, which, under the preceding rules, may be competent to receive such appeal; and shall present a petition, written on the stampt paper, prescribed by Section 18, Regulation I. 1814, and accompanied by an attested copy of the order or decree passed in the case.

The petition for a summary appeal to be written on what stampt paper.

Seventh. The party presenting such petition, shall not be liable to the payment of the stamp duty substituted for the institution fee by Section 13, Regulation I. 1814; nor shall he be required to furnish the deposit for the fee of his *vakeel*, or any security, except such as may be eventually necessary under the regulations in force, for staying the execution of the decree, from which the appeal may be preferred.

Party not liable to pay the institution fee, nor to furnish the usual deposit or security. Exception.

Eighth. It shall not be requisite to give any notice to the respondent, or to require his attendance on such summary appeal being preferred, unless in any particular instance the court may deem it proper to adopt that measure; nor shall any pleadings or proceedings be holden on such summary appeal, excepting such as may suffice to determine whether the suit was or was not rejected or dismissed by the lower court on sufficient grounds, and in conformity with the regulations.

Mode of proceeding in summary appeals.

Ninth. If upon such summary proceedings, it shall appear to the court, that the suit was rejected in the first instance, or after being admitted, was dismissed without an investigation of the merits, upon insufficient grounds, or in opposition to the regulations; it shall be competent to the Sudder Dewanny Adawlut, to the provincial courts, and to the *zillah* or city judges respectively, to direct the lower court or officer, from whose order or decree the petition of appeal may have been presented, to receive the original suit or appeal, or to revive it, if it shall have been received and dismissed, and to try and determine such cause on its merits, according to the regulations.

In what cases the lower courts may be directed to receive or to revive the suit.

Tenth. If on the contrary such summary appeal shall be found to be groundless and litigious, the Sudder Dewanny Adawlut, the provincial courts, and the *zillah* or city judges, are respectively authorized and required to reject the petition for a summary appeal, and to impose such fine on the litigious appellant, as may appear to be in each instance proportionable to the condition of the party, and to the circumstances of the case; provided that such fine shall in no case exceed the amount of the stamp duty, which would have been payable by the appellant on the institution of such case, as a regular suit or appeal. All orders, imposing fines or rejecting petitions of summary appeal, which may be passed under the preceding clause, by the Sudder Dewanny Adawlut, the provincial courts, or by the *zillah* or city judges, shall be final and conclusive.

In what cases the courts may reject the summary appeal, and fine the appellant.

The orders of the court in such cases to be final.

Eleventh. When a pleader may be employed in such summary appeals, the court is authorized to award to him such fee, as may be considered to be a sufficient compensation for his labour, provided that it shall in no case exceed one-fourth of the fee to which such *vakeel* would have been entitled, if the suit had been instituted either as an original suit or as a regular appeal.

Provision for pleaders' fees in such cases.

IV. *First.* Sections 2. and 3, Regulation II. 1798, Section 22, Regulation II. 1803, (extended to the conquered provinces and to Bundlecund by clause third, Section 9, Regulation VIII. 1805,) clause second, Section 30, Regulation IV. 1803, Section 37, Regulation V. 1803, and Regulation III. 1813, are hereby rescinded, and the following rules are substituted in their stead.

Provisions rescinded.

Second. Any persons considering themselves aggrieved by a decree passed in a regular civil suit, or appeal by a *zillah*, city, or provincial court, from which decree no further appeal may have been admitted by a superior court, and who, from the discovery of new matter or evidence which was not within their knowledge, or could not be adduced by them at the time when the decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against them, are at liberty to present a petition for this purpose to the court in which the decree in question may have been passed; such petition shall be written on stampt paper of the value prescribed in Section 18, Regulation I. 1814, and shall be presented within the period of three calendar months from the delivery or tender of the decree, which period shall be calculated according to the provi-

Provisions regarding the mode of applying for permission to review judgments from which no appeal shall have been preferred.

sions of clause eleventh, of Section 8. of this regulation. The courts are nevertheless authorised to admit applications for a review after the period above mentioned, provided that the parties preferring the same shall be able to shew just and reasonable cause to the satisfaction of the court for not having preferred such application within the limited period; in such case however the courts are enjoined to proceed with caution, and to state at large upon the proceedings, their reasons for admitting such applications after the limited period. If the courts shall be of opinion, that there are not any sufficient grounds for a review, they shall reject the petition, and their order to that effect shall be final; but if, on the contrary, they shall be of opinion, that the review desired, is necessary to correct an evident error, or omission, or is otherwise requisite for the ends of justice, they shall report the same to the Sudder Dewanny Adawlut, transmitting at the same time, a statement of the grounds of their opinion, with a copy of the petition presented to them, and a copy of the decree passed in the case.

Provision for empowering the Sudder Dewanny Adawlut to grant a review.

Third. The court of Sudder Dewanny Adawlut, in cases referred to them under the preceding clause, as well as in all cases in which a petition may be presented to them for a revision of their own judgments, which may not have been appealed to the King in Council, (or though appealed, the proceedings in which may not have been transmitted to the King in Council,) are authorized to grant the review desired, if upon a consideration of the reasons stated, the circumstances of the case shall appear in justice to require it. The Sudder Dewanny Adawlut shall record on their proceedings the grounds upon which a review may be granted by them in each instance, and shall issue any instructions regarding the admission or rejection of new evidence in the case, which they may deem just and proper.

The orders rejecting applications for a review not to bar the right of a party to prefer a regular appeal.

Fourth. The order of a *zillah* or city court, or of a provincial court, or of the Sudder Dewanny Adawlut, rejecting the petition for a review in the first instance, or of the latter court refusing to sanction a review when applied for by a lower court, shall not be construed to preclude the party from instituting a regular appeal, (if the case be appealable,) in a competent court, subject to the conditions and rules prescribed by the regulations in force for the admission of such appeals.

Provisions to prevent superfluous pleadings and evasions of the stamp duty.

V. *First.* In order to prevent the unnecessary occupation of the time of the public officers by the introduction of superfluous matter into the pleadings and petitions of parties, and to guard against the evasion of the rules prescribed by Regulation I. 1814, for raising a revenue by means of stamp duties, the following provisions are hereby enacted.

Pleadings and other documents on stampt paper how to be written.

Second. All pleadings, petitions, and applications, all deeds, documents, and other papers, whether originals or copies, which are required by the regulations to be written on stampt paper, are to be written in a fair legible manner, and as they have been hitherto usually prepared, as well with regard to the size of the writing, the space between the words, and the number of lines in each page, as to all other matters regarding their engrossment.

Rule to be adopted when the whole of the subject matter of a plaint or other pleading cannot be contained in a single sheet of stampt paper.

Third. If the subject matter of any plaint, or petition of appeal cannot, under the rule contained in the preceding clause, be conveniently comprised in a single sheet or roll of the stampt paper prescribed for such plaint or petition of appeal, any additional sheets or rolls which may be required for that purpose, shall be of the description of stampt paper specified in Section 17, Regulation I. 1814: in like manner, if the subject matter of any answer, reply, rejoinder, or other pleading, cannot be comprised in a single sheet or roll of the stampt paper prescribed for such pleading, any additional sheets or rolls, which may be required for that purpose, shall be of the description of stampt paper specified in Section 17, Regulation I. 1814.

Fine to be imposed on a breach of the preceding rules.

Fourth. If a party or *vakeel* or other person shall hereafter file in a *zillah* or city court, in the provincial court, or in the Sudder Dewanny Adawlut any plaint, or pleading, required to be written on stampt paper, which may not have been prepared in conformity with the foregoing provisions of this section, the court is authorized to impose on such party, *vakeel*, or other person, any fine which they may deem proper, provided that such fine shall in no instance exceed three times the amount or value of the additional stampt paper, which would have been required had the plaint or pleading been drawn up in conformity with the foregoing provisions.

Fifth. If the subject matter of any miscellaneous petition or application, or of other papers specified in Section 18, Regulation I. 1814, cannot, under the rule contained in clause second, of this section, be conveniently comprized in a single sheet or roll of the prescribed stampt paper; any additional sheets or rolls, which may be required for that purpose, shall be of the value and description specified in the said section of the regulation in question; and if any such petition or paper, which may not have been prepared in conformity with the foregoing rule, and with the rules contained in clause second of this section, shall be hereafter presented to any of the courts or officers specified in Section 18, Regulation I. 1814, such court or officer is hereby authorized to impose a fine on the party or person presenting, under the same limitations as are prescribed in the preceding clause.

Similar provisions with reference to miscellaneous petitions or applications.

VI. *First.* The rules contained in Sections 5. and 6, Regulation IV. 1793, and in Sections 5. and 6, Regulation III. 1803, are hereby declared subject to the following modification.

Modification of certain provisions in force.

Second. Whenever a defendant in an original civil suit shall refuse or neglect to file a rejoinder within the period prescribed for that purpose, it shall not be necessary for the register (as hitherto required) to enter a rejoinder for him, but the court before whom the trial may be depending, after recording such refusal or neglect, shall proceed in the trial of the suit, in the same manner as if a rejoinder containing a general denial of the claim had been regularly filed.

Registers not required to file a rejoinder, when the defendant may refuse or neglect to do so.

Third. From and after the 1st of February 1815, no supplemental complaint or other supplemental pleadings shall be admitted in any suit, unless the court, upon a perusal of the pleadings previously filed, and from a consideration of the circumstances alleged by the parties, shall deem it just and proper to admit such supplemental plaint, or other supplemental pleadings to be filed in the suit.

Rules regarding the admission of supplemental pleadings.

VII. *First.* If during the trial of any regular suit it shall appear that the plaint has been written on stampt paper of a less value than that, which ought to have been used under the provisions of Sections 13. and 14, Regulation I. 1814, and the court shall be of opinion that the error or omission did not arise from any fraudulent motive, or from any design on the part of the plaintiff to evade the provisions of the regulations, it shall be competent to the court, either to permit or to direct the plaintiff, or appellant, in the suit to file a duplicate of the plaint on stampt paper of such a value, as may be sufficient to complete the full amount of the stampt duty prescribed by the sections above mentioned.

In what cases the courts may authorize a plaintiff, to file a duplicate of the plaint, for the purpose of correcting errors in the valuation of the cause of action.

Second. In addition to the provisions of Section 4, Regulation XIII. 1808, it is hereby declared, that if on the trial of any summary appeal preferred under that section, the provincial court shall be of opinion, that the original suit was not from its amount regularly cognizable in the *zillah* or city court, but that the irregularity in the institution of such suit did not arise from any fraudulent motive on the part of the plaintiff, it shall be competent to the provincial court to direct the *zillah* or city judge to refund to the plaintiff the amount of the fee or stamp duty paid by him, on instituting the suit in the *zillah* or city court, and the plaintiff shall be permitted to institute his suit *de novo* in the provincial court.

Provision for the repayment to a plaintiff of the stamp duty or institution fee in certain cases.

VIII. *First.* Such parts of Section 12, Regulation II. 1805, or of other provisions in force as require that the petition of appeal shall be uniformly accompanied by an authenticated copy of the decree appealed against, are hereby declared subject to the following modifications.

Modification of part of Section 12, Regulation II. 1805, and other provisions in force.

Second. Any party who may be desirous of appealing from a judgment passed against him subsequently to the 1st of February, 1815, by a *sudder ameen*, a register, or a judge of any *zillah* or city court, from which a regular appeal may be admissible under the regulations, shall be at liberty to present his petition of appeal without an authenticated copy of the decree, to the judge of the *zillah* or city in which the decision may have been passed. Such petition of appeal shall not be required to contain the specific grounds, or reasons of the appeal, but may state shortly that the party, being dissatisfied with the judgment, is desirous of appealing from it. The petition must be written on stampt paper according to the rates and provisions contained in Sections 13. and 14, Regulation I. 1814, and must be accompanied by the prescribed security for the eventual costs in appeal.

The petition of appeal from decisions passed in the *zillah* and city courts may be presented to the judge without an authenticated copy of the decree.

The petition need not contain the detailed reasons for the appeal.

But must be written on prescribed stampt paper, and accompanied by the requisite security.

The judge may admit the appeal, after referring to the original decree.

Third. The *zillah* or city judge, after referring to the decree in the original record of the suit, shall then admit the appeal, provided that the petition of appeal and the security required shall have been duly presented in the mode above prescribed, within the periods limited for the admission of such appeals under the existing regulations.

The deposit for pleaders' fees to be paid into the court by which the appeal may be tried.

Fourth. The deposit for the pleaders' fees prescribed by Section 23, Regulation XXVII. 1814, in lieu of the security formerly demanded for such fees, is not required to be furnished with the petition of appeal; but in cases in which a pleader shall be appointed to conduct the appeal, the deposit shall be delivered to the court by which the appeal is to be tried.

Appellants authorized to state their reasons of appeal, either in the petition or in a separate pleading

Fifth. The specific objections to the judgment, and detailed grounds and reasons for preferring the appeal, may be stated at the option of the party in the original petition of appeal, or may be subsequently filed in the court trying the appeal as a separate pleading; in the latter case such pleading is to be written on the stampt paper, and according to the rates prescribed for other pleadings in Section 27, Regulation I. 1814.

The provisions in the preceding clauses applicable to appeals from decisions passed by the provincial courts, and by the Sudder Dewanny Adawlut.

Sixth. In like manner any parties who may be desirous of appealing from the judgments passed by the provincial courts in suits regularly appealable to the Sudder Dewanny Adawlut, or from the judgment of the Sudder Dewanny Adawlut in suits which may be regularly appealable to the King in Council, shall be at liberty to present their petition of appeal, without an authenticated copy of the decree, to the court by which the judgment may have been passed, in conformity with the provisions contained in the preceding clauses of this section.

In what cases it shall be necessary to file an authenticated copy of the decree with the petition of appeal.

Seventh. Under the preceding rules, parties in suits decided in the first instance in a *zillah* or city court, a provincial court, or the Sudder Dewanny Adawlut, will be enabled to prefer an appeal from such decision without the necessity of filing an authenticated copy of the decree; but if any party in a suit which may be regularly appealable to a provincial court, or to the Sudder Dewanny Adawlut, may be desirous, under the option allowed by the regulations, of presenting his petition of appeal in the court by which the appeal is to be tried, rather than in the court by which the decision may have been passed in the first instance, it shall be requisite for such party to file with his petition of appeal an authenticated copy of the decree.

Parties requiring a copy of a decree to furnish the requisite stampt paper.

Eighth. For the purpose of obtaining an authenticated copy of the decree in such cases, the party desiring it shall furnish to the court by whom the decision may have been passed, one, two, or more sheets or rolls of the stampt paper prescribed in Section 19, Regulation I. 1814, as may be necessary for transcribing the decree.

Courts how to proceed, when such stampt paper may be furnished.

Ninth. When such stampt paper shall be furnished, the *serishtadar*, or such other principal officer as may be authorized by the court to discharge that duty, shall endorse on it the date of its being furnished, the name of the party on whose account it may be presented, and the number of the suit to which it may be intended to be applicable, and shall grant to the party a corresponding receipt for the same on unstampt paper; the copy of the decree shall then be prepared and duly authenticated, and shall be delivered or tendered to the party by whom the stampt paper may have been furnished, or to his *vakeel* in open court, and the date of the delivery or tender of such copy shall be also endorsed on the copy.

Limitation of time for the admission of appeals how to be calculated in such cases.

Tenth. The respective periods limited by the regulations for the admission of appeals in such cases, shall be calculated from the date on which the decision may have been passed; excluding from the calculation of such periods, the interval which may have elapsed in each instance between the date on which the requisite stampt paper may have been furnished by the party to the court, and that on which the copy of the decree may have been tendered or delivered to the party in open court, in the mode prescribed by the regulations. The courts will in all cases be enabled to ascertain such interval by the endorsements on the copy of the decree required to be made under clause ninth of this section.

The provisions of the three preceding clauses applicable to copies of decrees or orders, from which a party may desire

Eleventh. The principles of the rules contained in clauses eighth, ninth, and tenth, of this section, are to be considered applicable to all copies of decrees, from which a party may be desirous of preferring a special or a summary appeal; and to all copies of orders passed by the judges and registers of the *zillah* and city courts, by the provincial courts, and by

the Sudder Dewanny Adawlut, which those courts may be required to furnish to parties under the provisions of any regulation.

to prefer a special or a summary appeal.

IX. *First.* Such parts of the regulations in force as require that the pleadings in appealed suits be conducted and filed in the same manner and under the same rules as pleadings in original suits, are hereby declared subject to the following modifications.

Modification of rules regarding pleadings in appeals.

Second. In all regular civil suits which may be appealed subsequently to the 1st of February 1815, to a *zillah* or city court, to a provincial court, or to the Sudder Dewanny Adawlut, it shall be left to the option of the respondent either to file an answer to the petition and reasons of appeal, or not, as he may judge proper; provided however, that if no answer shall be filed by a respondent, it shall be competent to the court trying the appeal, in all cases in which it may be deemed expedient, to direct the respondent to file an answer to the petition of appeal, or to any particular points in it, which may appear to require an answer or explanation.

The respondent may file an answer to the reasons of appeal or not, at his option.

Proviso.

Third. No further pleadings beyond the answer of the respondent shall be admitted in any appealed suits, which may be instituted subsequently to the 1st February 1815, except the duplicate of the plaint provided for by clause first, Section 7. of this regulation, or such supplemental pleadings as may be authorized by the court under the provisions of clause third, Section 6. of this regulation.

No further pleadings beyond the answer to be admitted, with certain exceptions.

X. *First.* In the trial of original regular suits, as well as in the trial of appeals in such suits, the prescribed pleadings shall be completed and read in open court, before any exhibits are filed, or witnesses summoned in support of the allegations of either of the parties; unless special and sufficient reason be assigned for taking the immediate deposition of a witness, without waiting until the pleadings are completed and read in open court.

Pleadings to be read before exhibits are filed or witnesses summoned.

Exception.

Second. If from the pleadings in the case the points at issue cannot be clearly ascertained, or if from any other reason further explanations may be requisite, the courts shall, on the day on which the suit may be first brought to a hearing, make such inquiries from the parties or their pleaders as may appear necessary, with a view to ascertain the precise object of the action, and the grounds on which it is maintained, and shall record the result on their proceedings.

Courts to require any necessary explanatio s of the case from the parties or their pleaders.

Third. The court shall then consider and record the point or points to be established respectively by the plaintiff or appellant, and by the defendant or respondent, and shall proceed to take the evidence which may be adduced by either party upon such points in the manner prescribed by the rules in force.

The courts to record the points necessary to be established by the parties.

Fourth. In like manner, if proof shall be required on any other points in the course of the trial, such points shall be recorded on the proceedings, and the proper party shall be called upon for the requisite evidence; and no exhibit shall be filed, or witness summoned, unless expressly declared to be in proof or refutation of some point, upon which the court may have directed that evidence should be taken.

And any additional points which may subsequently appear necessary.

And no evidence to be admitted, except with regard to the points so recorded.

XI. In modification of Section 11, Regulation XIII. 1808, it is hereby provided, that whenever a witness, whose evidence may be required by the Sudder Dewanny Adawlut, or by a provincial court, may reside at such a distance as to render his attendance before such court inconvenient, or whenever from any cause it may be deemed improper to summon a witness to such court, the Sudder Dewanny Adawlut, or the provincial court, instead of merely instructing the *zillah* and city judge upon what points the witness is to be examined, shall prepare and transmit to the *zillah* or city judge distinct written interrogatories to be put to each witness; such interrogatories shall be prepared and signed by the parties or their *vakeels* under the direction of the court, and shall be countersigned by the judge of the court who may order the examination. The *zillah* or city judge to whom such interrogatories may be sent, shall in the first instance cause the depositions of the witnesses to be taken in answer to the interrogatories, and shall then allow the parties or their pleaders, in whose presence the witnesses may be examined under Section 9, Regulation XIII. 1808, to put any other questions which may appear relevant to the points at issue in the case.

Evidence of witnesses which may be required in certain cases by the provincial courts and the Sudder Dewanny Adawlut, to be taken by the *zillah* or city judges on written interrogatories.

XII. *First.* In order that the parties in a suit, or their authorized pleaders, may be fully prepared to file their exhibits, and to name their witnesses, as well as to furnish any explanations

Previous notice to be given by the courts of the

day on which a suit is to be brought to a hearing.

explanations of the case which may be required at the time when the suit may first be brought to a hearing, the several courts are enjoined carefully to attend to those provisions in the regulations which require that eight days previous notice be given to the parties of the day on which the court may propose to bring the suit to a hearing.

A notification of the day, duly affixed in the *cutcherree*, shall be a sufficient notice.

Second. For this purpose it shall be sufficient for the court to affix, in some conspicuous place in the court-room, a notification, specifying the number of the suit, the names of the parties and of the *vakeels* respectively entertained in the suit, together with the date on which it may be intended that such suit be brought to a hearing before the court; and such notice shall be held and considered to be in force until the suit can be brought to a hearing either on the day fixed or any subsequent day.

Courts authorized to fine parties who may be unprepared to file exhibits or to name their witnesses on the day notified for the hearing of the suit.

Third. If either of the parties in a suit, which may be brought to a hearing after due notice shall have been given in the manner above prescribed, shall not be prepared to file their exhibits, or the names of their witnesses, or to furnish any explanations of the case which may be required by the court, and shall not assign sufficient and satisfactory reason for the delay, the courts are authorized to impose upon such parties such fine as may appear just and proper: provided that the fine shall in no instance exceed one-fourth of the fee paid on the institution of the suit, or of the amount of the stamp duty substituted for such fee.

Further penalty on a repetition of similar neglect.

If a similar neglect shall occur a second time, after due notice shall have been given of the day fixed for the case being again brought forward, the courts are authorized either to impose a second fine under the limitation above prescribed, or to proceed as in other cases of default.

Additional rules regarding security furnished in civil suits.

XIII. *First.* The following provisions are enacted in addition to the rules now in force regarding the security to be required from parties for the execution of decrees of the civil courts, or for staying the execution of judgments in the civil suits during an appeal in such suits.

Sureties prohibited from transferring their rights in any immovable property on which their security may have been accepted.

Second. All persons who may enter into security bonds for the purposes mentioned in the preceding clause, are prohibited from transferring, or from causing to be transferred, by sale, gift, mortgage, or otherwise, any land or other immovable property belonging to them, and specified in the schedule of property on which their security may have been accepted, until the object of their security shall have been completely fulfilled.

Explaining the purport and intent of the foregoing prohibition.

Third. This prohibition, however, shall not be construed to affect the legality of any private transfer or mortgage of such property, in cases in which the amount of any demand on the surety, which may eventually arise under the terms of the security bond, shall be duly discharged by him; but it is hereby declared, that no private transfer or mortgage of such property which may be made by a surety in the interval between the execution of the security bond, and the final and complete enforcement of the judgment, shall be considered to bar the prior right of the court to hold the whole or any part of such property answerable in the first instance for the amount of any demand upon it, which may eventually arise under the terms of the security bond, and which may not be duly discharged by the surety.

Modifications of the rules in force regarding the payment of *tullubbana*.

XIV. *Fifth.* Such part of the regulations in force as authorize the payment of *tullubbana* (subsistence or diet money) to *peons* or other persons, who may not receive a fixed monthly salary from Government for serving the summonses or other processes of the civil and criminal courts, are hereby declared subject to the following modifications and additions.

A register of *peons* employed in serving the civil and criminal processes of the *zillah* and city courts (who may not receive a monthly salary from Government) to be prepared.

Second. The judges and magistrates of the several *zillahs* and cities shall call upon their respective *nazirs* for detailed lists of the *peons* now employed in the execution of civil and criminal processes, who do not receive a monthly salary from Government, and after ascertaining what number is requisite in addition to the *chuprassies* on the public establishments for the service of such processes, they shall select a sufficient number of the fittest persons to be so employed, and shall cause their names to be registered with the following particulars, viz. the names of their fathers, their age and places of abode, and a concise description of their persons.

Nazirs not to employ any *peons* but those who may be duly registered, or who may be officers on the public establishment.

Third. The *nazirs* are hereby strictly prohibited, under pain of immediate dismission, from employing any person not registered in the mode above prescribed, and not being an officer on the public establishment, in the service of any process civil or criminal, or in the execution of any order or official act whatever, without a special authority from the judge or magistrate, or other public officer competent to give such directions.

Fourth. The *peons*, who may be registered as above required, shall be furnished with an uniform belt, or such other badge of office, at the discretion of the judge, as shall suffice to distinguish them from the *chuprassies* on the fixed establishments. The expense of such badge shall be defrayed out of the *tullubbana* of the *peon* receiving the same. The judges and magistrates of the several *zillah* and city courts are to frame a table for regulating the account of *tullubbana* demandable on the service of process civil and criminal, according to the rates prescribed by the regulations, or established by usage. The table shall contain a statement of the several police jurisdictions, or other more convenient local divisions, the computed distance of the centrical part of such local division from the *sudder* station, and the number of days for which *tullubbana* is to be allowed on the serving of process within each local division, calculated on the computed distance of the centre of each local division from the *sudder* station.

Distinguishing badges to be furnished to the registered *peons*.

And a table of rates to be prepared, applicable to the several local divisions, according to which the *tullubbana* is to be paid.

Fifth. The table so framed shall be suspended for general information in the *cutcherrees* of the judge and magistrate, and of the collector of the district; and no *tullubbana* shall be allowed in any instance beyond the rates, or for a greater number of days, than may be prescribed in such table, without a special written order from the judge or magistrate, the register, assistant, or other public officer competent to pass the same.

The table of rates to be suspended in the *cutcherree*, and no higher rates to be taken or demanded.

Sixth. The amount of *tullubbana* which may be demandable according to the table mentioned in the preceding clause, shall be specified on the back of each summons or other process, and the amount shall be paid by the person taking out the process, to the *naxir*, previously to the execution of such process: a receipt shall be endorsed on the process in each instance by the *naxir*, specifying the amount, and the person from whom it was received.

The amount of the *tullubbana* demandable, and a specific receipt for it, to be endorsed on the process previously to its execution.

Seventh. When two or more processes may be served by one *peon*, the judge and magistrate, or other officer, who may order the same to be served, shall determine in what proportions the fixed rates of *tullubbana* shall be paid by the parties respectively, and shall sign an order to that effect on the face or back of the process.

Provisions where two or more processes may be served by one *peon*.

Eighth. When the process shall have been executed and returned according to the preceding rules, the *naxir* shall pay to the *peon* who may have served the same, three-fourths of the amount of the *tullubbana* received by him on account of such process, and the *naxir* shall be entitled to appropriate the remaining one-fourth of the *tullubbana* to his own use.

The *peon* to receive three-fourths and the *naxir* one-fourth of the amount of the *tullubbana*, when the process shall have been executed.

Ninth. The judges and magistrates, the registers and assistants, are required to take every possible precaution, and to give all practicable attention for the purpose of preventing illegal or undue exactions of diet or subsistence money under the name or pretence of *tullubbana*.

Every precaution to be adopted to prevent undue exactions on account of *tullubbana*.

XV. *First.* Such parts of the regulations as are construed to require, that the decrees passed in civil suits shall be executed and enforced by the courts without any application for that purpose from the parties, are hereby declared subject to the following modifications.

Modifications of existing rules regarding the execution of decrees.

Second. Decisions passed by *moonsiffs*, in all suits cognizable by them, either previously or subsequently to the first of February 1815, shall be executed in the manner prescribed by Section 45, Regulation XXIII. 1814.

Under what rules the decrees of *moonsiffs* are to be enforced.

Third. Decrees which may have been passed by the *zillah* or city courts, the provincial courts, or the Sudder Dewanny Adawlut, on regular suits or appeals previously to the promulgation of this regulation, shall be executed by those courts according to the provisions of the regulations heretofore in force, and in the same manner as they have hitherto been enforced.

Decrees passed previously to the promulgation of this regulation to be executed under the rules heretofore in force.

Fourth. The *zillah* and city courts, the provincial courts, and the Sudder Dewanny Adawlut, shall not be required to carry into execution any decree which may be passed in original suits, or in appeals, subsequently to the 1st of February 1815, except in conformity with the following rules and provisions.

Courts not bound to execute decrees (except in conformity to the following rules) passed subsequently to the 1st of Feb. 1815.

Fifth. Any party who may be desirous of obtaining the execution of a decree passed subsequently to the 1st of February 1815, shall appear either in person or by an authorized

Parties desiring to have their decrees en-

forced to present a petition to the court.

rized pleader before the court by whom such decree may have been passed, or if the decree shall have been passed by a *sudder ameen*, before the *zillah* or city judge, and shall present a petition written on the stampt paper prescribed in Section 18, Regulation I. 1814, praying for the execution of the decree.

What the petition is to contain.

Sixth. The petition shall state the number of the suit, the names of the parties, the date and substance of the decree, whether any appeal has been preferred or admitted from the decision, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree: it shall further contain a statement of the specific amount due to the petitioner under the decree, whether on account of costs of suit or otherwise, and the name of the individual, or individuals, against whom the enforcement of the decree is solicited.

The court how to proceed in the execution of the decree.

Seventh. The court, after causing the purport of the petition to be compared with the decree contained in the original record of the suit, shall proceed to execute the same in conformity with the provisions which are now in force, or which may be hereafter enacted.

In certain cases specified, the courts to make previous inquiries, and to pass such orders as may appear just and proper, with regard to the execution of decrees.

Eighth. Provided, however, that if the suit shall have been tried *ex parte*, or that an interval of more than one year shall have elapsed between the date of the decree and the application for its execution; or that the enforcement of the decree shall be solicited against individuals being heirs or representatives of the original parties in the suit, or against one only of several individuals equally affected by the decree, or if there shall appear reason to believe that the matter in dispute has been adjusted by the parties subsequently to the decree, either by the voluntary surrender of the thing adjudged, or by the payment of the sum decreed, either in whole or in part, by *kistbundee* or otherwise, it shall be competent to the court, instead of proceeding to the immediate enforcement of the decree, to issue a notice to the party against whom execution may be sued out, requiring him to shew cause, within a limited period to be fixed by the court, why the decree should not be executed against him. If upon such notice the party shall not attend in person or by *vakeel*, or shall not shew sufficient cause to the satisfaction of the court why the decree should not be forthwith executed, the court will cause the judgment to be satisfied according to the rules in force. If the party shall attend in person or by *vakeel*, and shall offer any objection to the enforcement of the decree, the court shall issue such order, after a due consideration of the circumstances of each case, as may appear just and proper.

Provisions for recovering costs due to Government and *vakeels'* fees, and for executing decrees in pauper suits.

Ninth. The preceding rules shall not be construed to prevent the courts from issuing process of execution, for the purpose of recovering any fees or costs which may be due to Government, or any fees due to *vakeels* by a party in a suit, whether decided before or after the 1st of February 1815. In such cases, as well as in suits in which a party may have been allowed to plead *in formâ pauperis*, the court shall proceed, without any application from the parties, to enforce execution of the judgment, so far as relates to the recovery of the amount of fees or costs, due to Government, or to pleaders in the suit.

What stampt paper to be used for copies of decrees furnished to parties.

XVI. *First.* In explanation of clause second, Section 5, Regulation I. 1814, it is hereby enacted, that paper of European manufacture, bearing a stamp of the value specified in Section 19, Regulation I. 1814, shall be used for all copies of decrees in regular or summary suits, which may be furnished to the parties by the judges, assistant judges, or registers of the *zillah* and city courts, by the provincial courts, and by the Sudder Dewanny Adawlut.

On what paper copies of decrees for record are to be written.

Second. Copies of decrees, which may be prepared by those courts, to remain with their own records, shall be written on unstampt paper of European manufacture, of the same size and description as that which may be stampt for the copies of decrees to be delivered to the parties.

Copies of papers made for records or official use not required to be written on stampt paper.

Third. Copies of proceedings, and orders, accounts, statements, or other papers made for records of court, or for transmission to other courts or public offices, may be written as heretofore on unstampt paper, except in cases in which it may be otherwise specifically provided for by the regulations.

Copies which individuals may be authorized to

Fourth. It is hereby declared, that the provisions of Regulation I. 1814, are not intended to preclude individuals from making for their private use and at their own expense,

copies of judicial or revenue papers, with the permission of the court, collector, or other public officer having charge thereof, on any paper which they may prefer; but if such copies be not made on stampt paper, they shall not be authenticated by the seal or signature of any court, collector, or other public officer, and shall not be received as evidence in any court of justice, or in any public office whatever.

make for their own use, need not be written on stampt paper, but shall not be authenticated by any official seal or signature.

XVII.* First. *Any ministerial officer, who may hereafter file in any court of justice, or in the office of any collector, or other public officer, without the written order of such officer, any petition, pleading, or other document required to be written on stampt paper, which may not have been written on the prescribed stampt paper, or who shall furnish a copy of any paper or proceeding required to be written upon stampt paper, on any other paper than the required stampt paper, shall be liable to dismission from office, and to the payment of a fine to Government equal to ten times the amount of the stamp duty, which would have been payable if the prescribed stampt paper had been used for such petition, pleading, or other document.*

Penalties for filing or furnishing copies of papers not written on the prescribed stampt paper.

Second. *Such penalty shall be recoverable by a summary process in the courts of* dewanny adawlut.

Penalty how to be recovered.

XVIII. All authenticated copies of the documents specified in Section 11, *Regulation I.* 1814, *which may be prepared as legal vouchers by a* cauzee, mooftee, *or other authorized person, shall be written on stampt paper according to the rates prescribed for the originals of such deeds: any copies not written on such paper will not be admissible in evidence, under Section* 9, *Regulation I.* 1814.

Rules regarding the stampt paper on which copies of certain documents are required to be written.

XIX. In explanation of Section 11, Regulation I. 1814, it is hereby declared, that security bonds for appearance (*hazer zamince*), security bonds for the payment of eventual costs of suit, as well as all other security bonds not being for a specific amount, and all deeds of contract, partnership, or agreement, and engagements of whatever nature which may not relate to a specific sum of money, or to a specific value, so as to make it practicable to apply to them, the table of rates stated in Section 11, Regulation I. 1814, are required to be written on stampt paper of the value of one rupee, under the penalty declared in Section 9, Regulation I. 1814.

Security bonds and other deeds not relating to any specific sum of money or any specific value, are to be written on stampt paper of the value of one rupee.

XX. *First.* It is hereby explained, that Sections 13, 14, 15, 16, and 17, Regulation I. 1814, are meant to apply only to original regular suits, and to appeals regular or special, from judgments passed on the merits of such suits, and not to summary suits, or to summary appeals, or to miscellaneous petitions or applications of any description.

Explanation of certain provisions in Regulation I. 1814.

Second. In all original summary suits and summary appeals authorized by the regulations, and in all miscellaneous applications, the plaint, petition, or application, the answer, and other pleadings, shall be written on the stampt paper prescribed in Section 18, Regulation I. 1814.

On what stampt paper pleadings in summary suits, and in miscellaneous applications, are to be written.

Third. The provisions of Section 15, Regulation I. 1814, are not intended to apply to exhibits accompanying or referring to any miscellaneous petition or application, which under Section 10, Regulation VI. 1797, and Section 10, Regulation XLIII. 1803, were formerly liable to the payment of a fee on such exhibits being filed.

The provisions of Section 15, Regulation I. 1814, not applicable to exhibits in certain cases.

XXI. All applications made by the collectors, or the assistant collectors, or by the Board of Revenue, or Board of Commissioners to the courts of judicature for the apprehension or confinement of defaulters, or on any other subject relating to the public revenue, may be written upon common paper without a stamp. This rule however shall not be considered applicable to any regular suit in which the Board of Revenue, or the Board of Commissioners, a collector, or an assistant collector, may be a party either on their own account as individuals, or on the part of Government.

Certain applications from revenue officers may be written and filed in the courts on unstampt paper.

XXII. In modification of Sections 15. and 16, Regulation I. 1814, it is hereby declared, that in lieu of filing a separate *derkhaust* or application for the admission of each exhibit, and the attendance of each witness, it shall be sufficient to file one or more applications or lists, including any number of exhibits desired to be filed, and the names of any number of witnesses desired to be summoned; provided that such applications or lists be written on

Modifications of Sections 15. and 16, Regulation I. 1814, with regard to the mode of filing exhibits and summoning witnesses.

* Sections 17. and 18. are rescinded by Section 3, Regulation XVI. 1824.

one, two, or more sheets or rolls of stampt paper, the total value of which shall correspond in amount with that of the stampt paper, which would have been requisite had the application for each exhibit, or witness, been written on separate stampt paper, under the rules contained in Sections 15. and 16, Regulation I. 1814.

Explanation of Section 14, Regulation I. 1814.

XXIII. The valuation of land paying revenue to Government, as assumed in clause first, Section 14, Regulation I. 1814, being applicable only to entire estates, distinctly assessed, or to specific proportions of such estates, it is hereby explained, that in suits for *malguzaree* land, not constituting an entire estate distinctly assessed, or a specific proportion of such estate, the value of the land claimed is to be assumed and estimated according to clause third, of Section 14, Regulation I. 1814.

Vakalutnamahs and certain other documents declared to be not liable to the stamp duty on exhibits.

XXIV. It is hereby explained, that *vakalutnamahs* and *moktarnamahs*, arbitration bonds, security bonds for appearance, as well as security bonds for the eventual payment of costs, or for the performance of a decree, or for staying or enforcing the execution of a decree, which may be executed in any original suit or appeal, are not liable to the stamp duty on exhibits prescribed by Section 15, Regulation I. 1814.

Rules for refunding the stamp duty substituted for the institution fee, in cases authorized by the regulations.

XXV. *First.* With reference to the rules in force under which the civil courts are authorized or directed to return the institution fee or a portion of it to a party in a suit, or to his legal representative, it is hereby declared that in suits instituted subsequently to the 1st of May 1814, to which the rules above alluded to may become applicable, the courts shall cause to be paid to the party or to his legal representative the whole or a portion of the amount of the stamp duty substituted for the institution fee, to which such party may be entitled.

And for the payment of fees to *moonsiffs*, *sudder ameens*, and registers.

Second. The principles of the preceding rule are declared to be equally applicable to fees payable under the existing regulations to *moonsiffs*, *sudder ameens*, and registers, on the decision of suits in which the stamp duty may have been substituted for the institution fee.

Instructions to be issued by the proper officers, regarding the mode of paying sums due under the preceding clauses, and of adjusting the stamp accounts.

Third. It shall be the duty of the proper officers of Government, to issue such instructions for the guidance of the judicial and revenue officers, as may appear requisite, with regard to the mode of discharging in the first instance such sums as may become payable under the two preceding clauses, and for the purpose of facilitating the regular adjustment of the stamp accounts.

Explanation that deeds of marriage settlement are to be executed on stampt paper.

XXVI. Doubts having arisen, whether* kabeennamahs, *or deeds of marriage settlement, are to be written on stampt paper according to the table of rates contained in Section* 11, *Regulation I.* 1814, *it is hereby declared, that the provisions of that section were and are intended to be applicable to deeds of marriage settlement, in common with other deeds of contract for a specific amount.*

This section is rescinded by Section 3, Regulation XVI. 1824.

A. D. 1815. REGULATION II.

A REGULATION *for extending the Provisions of Clause Seventh, Section* 12, *Regulation XXIV.* 1814.—PASSED *by the Vice-President in Council, on the* 18*th of April* 1815 ; *corresponding with the* 7*th Bysaak* 1222 *Bengal era ; the* 24*th Cheyte* 1222 *Fussily ; the* 8*th Bysaak* 1222 *Willaity ; the* 9*th Cheyte* 1872 *Sumbut ; and the* 7*th Jamadi-ul-Awul* 1230 *Higeree.*

Preamble.

WHEREAS under the provisions of clause seventh, Section 12, Regulation XXIV. 1814, it is competent to the Governor General in Council to invest a register, stationed at a place not being the station of the *zillah* or city *dewanny adawlut* to which he is attached, with original jurisdiction in the cognizance and trial of summary suits, originating within local defined limits: and whereas it is expedient, that such original jurisdiction should not be confined to the limits of the district in which such person may hold the office of register, but should be extended, at the discretion of the Governor General in Council, to portions of other districts, in which such register may be authorized to exercise the powers of joint magistrate ; the following rules have been enacted, to be in force from the date of their promulgation, throughout the territories immediately subject to the presidency of Fort William.

In what cases a register may be specially empowered to take cognizance of summary suits, originating in other districts than that in which he may hold the office of register.

II. It shall be competent to the Governor General in Council to extend the original jurisdiction which may be vested in a register, with regard to the cognizance and trial of summary suits under clause seventh, Section 12, Regulation XXIV. 1814, to those portions of other districts in which such register may be authorized to exercise the powers of joint magistrate.

Provisions of clauses fourth, fifth, eighth, and twelfth, Section 12, Regulation XXIV. 1814, declared to be applicable to such suits.

III. The provisions contained in clauses fourth, fifth, eighth, and twelfth, Section 12, Regulation XXIV. 1814, shall be considered to be equally applicable to summary suits cognizable by a register under the original jurisdiction which may be vested in him in conformity with the preceding section, as to those which he may be authorized to receive and try under clause seventh, Section 12, Regulation XXIV. 1814.

Proceedings and periodical reports regarding such suits how to be furnished.

IV. It shall be the duty of the register to transmit, at such time as may be found convenient, the original proceedings held by him in the trial of summary suits under Section 2. of this regulation, together with the usual periodical reports regarding such suits, to the judge of the *zillah* or city within whose jurisdiction such summary suits may have originated.

A. D. 1816. REGULATION VI.

A REGULATION *for extending for a further Period of three Years the existing Settlement of Cuttack, Pergunnah Puttuspore, and its Dependencies, in all Cases in which the Settlement may have been concluded with Zemindars or actual Proprietors of the Land.*—PASSED *by the Governor General in Council, on the 8th March* 1816; *corresponding with the 27th Phagoon* 1222 *Bengal era; the 24th Phagoon* 1223 *Fussily; the 28th Phagoon* 1223 *Willaity; the 9th Phagoon* 1872 *Sumbut; and the 8th Rubbi-us-sanee* 1231 *Higeree.*

Preamble.

WHEREAS the existing settlement of the district of Cuttack, the *pergunnah* Puttaspore, and its dependencies, will expire with the present year 1223 Umlee, and whereas the information hitherto acquired by the Government and the revenue authorities respecting the limits and produce of the several estates comprised within the said district and places is too imperfect, either with reference to the rights and interests of Government or of the proprietors themselves, to afford grounds for the proper adjustment of an assessment which is to remain fixed in perpetuity; the following rules have been enacted, to be in force from the date of their promulgation, in the district of Cuttack and in the *pergunnah* of Puttaspore and its dependencies.

The existing settlement of Cuttack and of the *pergunnah* of Puttaspore and its dependencies, to continue in force until the expiration of the year 1226 Umlee.

II. The existing settlement of the land revenue of the district of Cuttack and of the *pergunnah* Puttaspore and its dependencies shall, in all cases in which it may have been concluded with *zemindars* or other acknowledged proprietors of land, continue in force until the expiration of the year 1226 Umlee, subject to the following provisions.

Zemindars who may not be willing to continue their engagements to the expiration of the year 1226 Umlee, to notify the same on or before the 1st July, 1816.

III. If any *zemindars* who have entered into engagements for the payment of the public revenue during the existing settlement, shall not be willing to continue those engagements to the expiration of the ensuing year 1226 Umlee, they shall notify the same to the collector of Cuttack, or to the collector of Hidgellee, according as the lands may be subject to the authority of either of those officers, on or before the 1st July next, corresponding with the 19th Assaar 1223 Bengal era; the 21st Assaar 1223 Fussily; the 20th Assaar 1223 Willaity; the 6th Assaar 1873 Sumbut; and the 4th Sabaun 1231 Higeree.

All *zemindars* who may not make a notification to the effect and within the period above mentioned, declared to be responsible for the payment of the same revenue as may be specified in their engagements for the year 1222 Umlee.

IV. All *zemindars* who shall not make a notification to the effect and within the period above mentioned, shall be held, and are hereby declared to be responsible for the payment of the same revenue during the ensuing three years, viz. until the expiration of the year 1226 Umlee, as may be specified in their engagements for the year 1222 Umlee, and is demandable from them on account of the present year 1223 Umlee, under the provisions of Regulation III. 1815.

The settlement of lands let to farm or held *khas*, how to be adjusted.

V. With respect to the lands which were let to farm in the year 1222 Umlee, and which were by special indulgence continued in the occupancy of the farmers during the year 1223 Umlee, under the provisions of Regulation III. 1815, as well as lands now held *khas*, the settlement of all such land shall be formed for the ensuing three years with the *zemindars*

or other actual proprietors of land, supposing such persons to be willing to engage for the payment of the public revenue on such terms as may appear reasonable, according to the most accurate information obtainable regarding the produce of their lands.

The collectors how to proceed in cases in which the *zemindars* may decline to engage for the payment of the revenue demandable from them, on account of such lands, or in which no acknowledged proprietors of the lands may be forthcoming.

VI. In cases in which the *zemindars* may decline to engage for the payment of the revenue demandable from their lands during the ensuing three years, or in which no acknowledged proprietors of lands may be forthcoming, it will of course be the duty of the collector to consider whether the lands should be let to farm, or whether the rents should be collected directly from the great body of the *ryots*; or in other words, whether the lands shall be *khas*; or whether (which will probably be found to be the most convenient and beneficial method) a settlement should be formed for the above period of three years for the several villages with the head *ryot*, however denominated, of each village respectively.

A. D. 1816. REGULATION VIII.

A REGULATION *for establishing the Office of Superintendent and Remembrancer of Legal Affairs.*—PASSED *by the Governor General in Council, on the* 29*th March,* 1816; *corresponding with the* 18*th Chyte* 1222 *Bengal era; the* 16*th Chyte* 1223 *Fussily; the* 19*th Chyte* 1223 *Willaity; the* 1*st Chyte* 1873 *Sumbut; and the* 29*th Rubbi-us-Sannee* 1231 *Higeree.*

Preamble.

THE duty of determining on the propriety of instituting or defending, on the part of Government, original suits or appeals in the several courts of civil judicature, rests under the existing regulations with the Governor General in Council, and with the several Boards acting under his authority in different departments. With a view to afford further facilities in the discharge of a duty which so materially involves the reputation as well as the interests of the Government, it is deemed advisable that an officer should be appointed, who, in the quality of superintendent and remembrancer of legal affairs, may aid the said authorities in such manner as may on experience be deemed most convenient, as well in the conduct of important suits and appeals when instituted, as generally in deciding on the propriety of having recourse to the established courts of justice for the recovery or maintenance of the rights and interests of Government. It is conceived also, that the public convenience will be in other respects promoted by the appointment of an officer of this description, whose services may, in certain cases of more than ordinary importance, be available in matters of a criminal as well as of a civil nature; and who may be employed by Government in the conduct of other judicial concerns in any mode not inconsistent with the existing regulations. The following rules have accordingly been enacted, to be in force from the date of the promulgation of this regulation throughout the whole of the provinces immediately subject to the presidency of Fort William.

A covenanted servant to be appointed to the office of superintendent and remembrancer of legal affairs.

II. A covenanted servant of the Company shall be appointed to the office of superintendent and remembrancer of legal affairs.

The superintendent and remembrancer is to furnish such aid in the conduct of cases in which Government may be concerned in the civil or criminal courts of justice as may be deemed advisable.

III. It shall be competent to the Governor General in Council to avail himself of the services of the superintendent and remembrancer of legal affairs in the maintenance of the public interests, by directing him to furnish such aid in the conduct of cases in which Government may be concerned, in the civil or criminal courts of justice, as may be deemed advisable.

And to furnish an opinion on the merits of any case that may be referred to him for the purpose, by the public authorities duly authorized by this regulation.

IV. It shall moreover be the immediate duty of this officer to furnish an opinion on the merits of any case that may be referred to him for the purpose, either by the Government or by any other authority duly authorized by this regulation; distinguishing clearly in each case whether the determination of the depending question rests upon matter of fact, or upon the provisions of the regulations of the British Government, or lastly upon the principles of the Hindoo and Mahomedan laws. In the last mentioned case, it shall be the duty of the superintendent and remembrancer uniformly to consult the proper law officer attached to the Sudder Dewanny Adawlut, and Nizamut Adawlut, previously to submitting his opinion on the subject.

In what cases the several Boards or other public authorities may avail themselves of the services of the superintendent and remembrancer of legal affairs.

V. In carrying into effect the provisions of the second and third clauses of Section 3, Regulation II. 1814, and previously to determining on the propriety of authorizing a recourse to judicial process, the Board of Revenue, the Board of Commissioners in the ceded and conquered provinces, the commissioner in Behar and Benares, and the Board of Trade are authorized to call for the sentiments, and to avail themselves of the assistance of the superintendent and remembrancer of legal affairs, in such manner as they may deem expedient, under the instructions which may be communicated to them for that purpose by the Governor General in Council.

The provisions of clause third, Section 37, Regulation XXVII. 1814, declared to be equally applicable to the superintendent and remembrancer of legal affairs as to the authorities adverted to in that clause.

VI. The provisions of clause third, Section 37, Regulation XXVII. 1814, are hereby declared to be equally applicable to the superintendent and remembrancer of legal affairs as to the other officers and authorities adverted to in that clause.

Clause second, Section 37, Regulation XXVII. 1814, modified by this regulation.

On vacancies occurring in the office of the *vakeels* of Government, the courts of justice are merely to report the circumstance for the information of Government, to the secretary in the judicial department.

The Government will ascertain which of the pleaders may be best fitted to succeed to the vacant office.

VII. *First.* In modification of the rule contained in the second clause, Section 37, Regulation XXVII. 1814, the following provisions are enacted.

Second. On the occasion of vacancies occurring in the office of the *vakeels* of Government in the courts of justice, such courts shall not nominate any individual to succeed to the office, but shall merely report the circumstance for the information of Government, to the secretary in the judicial department.

Third. It will rest with Government to ascertain, by such inquiries as they may deem necessary, which of the constituted pleaders of the court is best fitted by his qualifications and character to succeed to the vacant office, and to appoint such individual accordingly.

Suits instituted under clause 4, Section 3, Regulation II. 1814, how to be entered on the file.

VIII. In cases in which a party preferring a petition of complaint against a collector of the land revenue, or of customs, or against a commercial resident, or other person amenable to the courts of civil judicature, for acts connected with his official duties, may not be considered entitled to redress from Government, under the provisions of clause third, Section 3, Regulation II. 1814; and who may consequently, under the fourth clause of that section, proceed to prosecute the case in the regular course of law, such suit shall be entered on the file of the court, from the date on which the petition was originally received; and the case shall be brought to a hearing and determination, in the order in which it would have been heard and determined, had it been originally instituted on such date.

A. D. 1816. REGULATION XV.

A REGULATION *for expediting the Trial of civil Suits in which the native Officers and Soldiers attached to regular Corps on the military Establishment of the Presidency of Fort William may be Parties; and for giving to them certain Facilities in the Maintenance of their Rights, Claims, and Interests.*—PASSED *by the Governor General in Council, on the* 10*th June* 1816; *corresponding with the* 29*th Cheyte* 1223 *Bengal era; the* 30*th Jeyte* 1223 *Fussily; the* 30*th Jeyte* 1223 *Willaity; the* 15*th Jeyte* 1873 *Sumbut; and the* 13*th Rujub* 1231 *Higeree.*

Preamble.

WHEREAS by the local distribution of the regular forces on the military establishment of the presidency of Fort William, the native officers and soldiers are liable to be stationed at places remote from their homes and families; and whereas the constitution and nature of the service render it generally impracticable to grant to the native officers and soldiers a frequent or prolonged leave of absence from their military duties, in consequence of which, material difficulty and embarrassment have been unavoidably experienced by them in maintaining and preserving their just rights, claims and interests; and whereas the fidelity and courage exhibited by the native troops, in various wars on the continent of India, and the zeal and alacrity, which they have uniformly displayed in voluntarily embarking on foreign expeditions, entitle them to the favourable consideration of Government; the Governor General in Council, with the view of manifesting his sense of their good conduct, and of affording to them every facility in the maintenance of their rights, claims, and interests, which can be granted consistently with a due regard to the fundamental principles established for the administration of civil justice, and for the collection of the land revenue, has enacted the following rules, to be in force from the period of their promulgation, throughout the territories immediately dependant on the presidency of Fort William.

Provisions of certain regulations modified.

II. Such parts of the regulations in force as prohibit the courts of civil justice from corresponding by letter with parties in depending suits; or as direct that no pleadings shall be received in any civil cause except from the parties or their authorized pleaders; such parts of the regulations in force as require generally, that depending causes shall be brought to trial according to the order in which they may stand on the file, and such parts of the regulations in force, as prohibit the courts from furnishing copies of decrees, or from receiving *moktarnamahs* on any other paper than the prescribed stampt paper, are hereby declared to be subject to the modifications contained in the following sections of this regulation.

Native officers and soldiers may authorize any person to institute and conduct suits in which they may be a party.

III. *First.* Whenever a native officer or soldier on the military establishment of the presidency of Fort William may be desirous of instituting a regular or summary suit in any of the local courts of civil judicature, and shall not be able to obtain a furlough or leave of absence for the purpose of superintending or conducting such suit in person, he shall be at liberty to execute a *moktarnamah* or power of attorney, drawn up according to the form No. 1, in the appendix to this regulation, authorizing and appointing any member of his family or other person to institute and carry on the suit, and to perform all acts in the original

ginal trial of the cause, and eventually in appeal, in the same manner as if the party were himself personally present and consenting.

The *moktarnamah* need not be written on stampt paper.

Second. Such *moktarnamah* shall not be required to be written on stampt paper, but shall be executed by the native officer or soldier in the presence of the commanding officer of the corps or detachment to which he may belong, who shall countersign the same in testimony of its having been voluntarily executed.

The above document is to be transmitted to the register of the court by the commanding officer.

Third. The *moktarnamah* so executed is to be transmitted by the commanding officer under cover of a public letter drawn up in the form No. 2. of the appendix, addressed to the register of the court in which the suit is to be instituted; and upon the receipt of such letter, a notice shall be issued by the court for the purpose of procuring the attendance, either personally or by a constituted *vakeel*, of the person nominated in the *moktarnamah*.

The judge is to communicate the inability or refusal of a *moktar*, to undertake the trust.

Fourth. If such person shall refuse to attend the court in person, or by a constituted *vakeel*, or shall decline to undertake the trust, or shall subsequently die, or be prevented by any other sufficient cause from discharging the duty confided to him, the court shall cause information of the same to be communicated to the native officer or soldier, by an extract from the proceedings of the court, enclosed in an official letter to be addressed by the register, or in his absence by the judge, to the commanding officer of the corps.

The *moktarnamah* to be filed with the court's proceedings, if accepted by the person therein nominated to superintend the cause.

Fifth. If the person nominated and appointed in the *moktarnamah* shall attend the court in person, or by a constituted *vakeel*, and shall consent to undertake the duty confided to him, the original *moktarnamah* shall be deposited in the court and annexed to the proceedings which may be held on the suit. The *moktar* or attorney, so appointed and attending, may at his option, either prosecute the suit, and conduct the pleadings in person, or may constitute for that purpose one or more of the authorized pleaders of the court, under the provisions of Regulation XXVII. 1814. In all other respects the suit shall be instituted, tried, and determined in conformity with the general rules in force for the institution and trial of other similar suits, provided however that, when the native officer or soldier, who may be the real party in the suit, shall not be himself present at the time of its decision, an authenticated copy of the decree, written on unstampt paper, shall in each instance be transmitted, through the register of the court, to the commanding officer of the corps or detachment, for the purpose of its being communicated to the native officer or soldier.

The suit is to be investigated in other respects under the general regulations.

Sixth. It is hereby explained, that no part of the preceding clauses, or of the subsequent provisions of this regulation, is intended to be applicable to claims originating in loans granted by a native officer or *sepoy*, or in pecuniary transactions of a commercial nature.

Rules to be observed to prevent an *ex parte* trial of a cause in which a soldier or native officer is defendant.

IV. *First.* For the purpose of preventing as far as may be practicable the occurrence of *ex parte* trials in suits instituted against native officers or soldiers, it is hereby further enacted, that whenever a suit may be instituted in any civil court against a person being a native officer or soldier attached to a regular corps on the military establishment of the Honorable Company under the presidency of Fort William, the plaintiff or appellant shall be required to state the same distinctly in his plaint or petition of appeal; and to specify to the best of his knowledge and belief, the corps to which such native officer or soldier may be attached. If the plaintiff or appellant shall be unable to specify the corps, it shall be the duty of the court trying the suit, to endeavour to ascertain the point by such means of inquiry as may appear practicable and expedient.

A notice in the usual form to be transmitted to the commanding officer.

Second. A notice in the usual form, together with a copy of the plaint or petition of appeal on unstampt paper, enclosed in an official letter drawn up according to the form No. 3. of the appendix, shall be then transmitted by the register, or in his absence, by the judge, to the commanding officer of the corps, for the purpose of its being communicated to the native officer or soldier against whom the suit may have been instituted: a similar notice shall be issued, when omitted in the first instance, from ignorance of the defendant's being a native officer or soldier attached to a regular corps, if at any subsequent period during the trial of the suit, it should appear to the court, that the defendant or respondent is a native officer or soldier as above described; and in cases in which the plaintiff or appellant shall wilfully and intentionally omit to state in his plaint or petition of appeal, that the defendant or respon-

Fine to be imposed on a plaintiff or appellant in certain cases.

dent is a native officer or soldier, the court shall impose on such plaintiff or appellant, a discretionary fine not exceeding one fourth of the amount of the institution fee, or stampt duty in each case.

Third. The commanding officer, after causing the notice to be served on the party to whom it is addressed, if practicable, shall return it to the register or judge, with the written acknowledgment of the party endorsed thereupon, together with any *moktarnamah* which the party may be desirous of executing, according to the form No. 1. in the appendix, for appointing an attorney to defend the suit in his behalf. If from any cause the notice transmitted to the commanding officer cannot be served upon the native officer, or soldier, to whom it is addressed, it shall be returned by the commanding officer to the register or judge from whom it may have been received, with information of the cause which has prevented the service of it. In such case the court shall either make a further reference with the view of causing the notice to be duly communicated to the native officer or *sepoy*, or shall adopt such other measures for that purpose as on a consideration of the circumstances of each case may appear to be proper and consistent with the regulations.

The commanding officer, on receipt of the notice, will cause it to be duly served.

Measures to be adopted by the judge if the notice cannot served.

V. *First.* When a native officer or soldier may obtain a furlough for the purpose of instituting or defending a civil suit in any of the local courts of civil judicature, he shall be at liberty to request from the commanding officer of the corps or detachment, an official letter addressed to the register of the court in which the suit is to be tried ; such letter shall be drawn up according to the form No. 4. of the appendix to this regulation, but shall not give cover to any petition, nor contain any statement or explanation of the merits or circumstances of the case.

Rule to be observed by commanding officers in granting leave of absence to soldiers and native officers to enable them to superintend their own suits.

Second. Such letter shall be delivered in person by the native officer or soldier to the register, or in his absence to the judge of the court, who is hereby authorized, at the request of the party, to nominate a *vakeel* of the court for the purpose of furnishing to the native officer or soldier, his legal aid and advice in preparing the pleadings and in carrying on the prosecution or defence of the suit. The register, or judge, shall at the same time cause the native officer or soldier to be duly apprized of the provisions contained in Regulation XXVII. 1814, and of any other regulation in force, relative to the duties, and established fees of the pleaders attached to the civil courts, which must of course be observed whenever a native officer or soldier may wish to consult or employ a pleader.

The court authorized to nominate a *vakeel* on behalf of the native officer or soldier.

Provisions of Regulation XXVII. 1814, to be duly attended to on such occasions.

VI. Nothing contained in the preceding section shall be construed to prohibit a native officer or soldier from pleading his cause in person, or from employing any other authorized pleader of the court, whom he may prefer, instead of the pleader nominated for him by the court.

A native officer or soldier may plead his own cause or appoint his own pleader.

VII. *First.* The courts of civil judicature are hereby authorized and required to bring to hearing, without regard to the order in which they may be filed, all suits excepting those of the nature alluded to in the sixth clause of Section 3. of this regulation, in which a native officer or soldier, who may have obtained leave of absence from his corps, may be a party, and to pass a decision on such suits as speedily as may be consistent with the general rules in force, and with the due administration of justice.

Suits instituted under this regulation to be heard as soon as possible.

Second. If the cause cannot be brought to a decision previously to the expiration of the furlough granted to such native officer or soldier, the judge or register before whom the suit may be depending, is hereby vested with a discretionary authority to grant to such native officer or soldier an extension of his leave of absence for a period sufficient to admit of a reference being made to the commanding officer of the corps, with a view to ascertain whether the furlough can be prolonged for any further specific period. But whenever a judge or register may avail himself of the discretion above vested in him, he shall be careful to report the same immediately in an official letter to the commanding officer of the corps to which the native officer or *sepoy* may be attached.

Mode to be adopted by the court in the event of the expiration of the furlough before the cause be decided.

Third. In all cases in which a native officer or soldier may return to his corps before a final decision can be passed in his suit, he shall be at liberty either to leave the further conduct of the suit to a constituted *moktar* under a *moktarnamah*, duly executed according

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to the form No. 1. in the appendix to this regulation, or to one or more of the established pleaders of the court empowered to act for him by a regular *vakalutnamah*. In either case a copy of the decree which may be passed in the suit shall be transmitted for the information of the native officer or soldier, in the manner prescribed in the fifth clause of Section 3. of this regulation.

Rules to be observed when any land or real property belonging to a soldier or native officer is attached.

VIII. Whenever any land or real property belonging to a native officer or soldier may be attached by a court of justice for the purpose of realizing the amount of any judgment, fine, or penalty imposed on such native officer or soldier, the court shall cause notice of the same to be issued in the manner prescribed in the second clause of Section 4. of this regulation, and shall postpone the sale for such definite period as may appear reasonable, for the purpose of affording an opportunity to the native officer or soldier to discharge the amount of the judgment, fine, or penalty.

Any registered proprietor of an estate paying revenue to Government entertained as a native officer or soldier, may notify the same to the collector.

Duty of the collector in such cases, and in the event of an arrear of revenue becoming due.

IX. *First.* Any registered proprietor of an estate paying revenue to Government, who may be entertained as a native officer or soldier on the military establishment, under the presidency of Fort William, shall be at liberty to notify the same in a petition to the collector, specifying the rank which he may hold, and the designation of the corps to which he may be attached. A memorandum of such notification shall be inserted by the collector in the public registers and accounts relative to the estate and its assessment; and in cases in which the estate, or a portion of the estate of a native officer or soldier who may have duly made such notification, shall become liable to public sale for the recovery of an arrear of revenue, the collector shall address an official letter to the commanding officer of the corps, drawn up in the form prescribed in No. 5. of the appendix to this regulation; the collector shall enclose in such letter a written notice, signed and sealed by himself, and attested by the principal native officer on his establishment, specifying the amount of the arrear, the date on which it became due, and requiring it to be paid at the treasury of the collectorship within such limited period of time, as on consideration of the distance at which the corps may be stationed, and other circumstances of the case, may appear to be proper and reasonable.

Duty of the commanding officer on receiving from the collector a report of such arrears.

Second. The commanding officer of the corps shall acknowledge the receipt of the collector's letter, and shall specify the date on which the notice may have been communicated to the party, or the circumstances which may have rendered it impracticable to make such communication.

Collectors how to proceed in cases where arrears may not be discharged within a specified time.

Third. If the native officer or soldier shall omit to discharge the arrear within the term specified in the notice, the collector shall report the circumstances of the case to the Board of Revenue, or to the Board of Commissioners, or to the commissioner in Behar and Benares respectively, transmiting at the same time a copy of the notice and of his correspondence with the commanding officer, and shall be guided in his further proceedings by the orders which he may receive in each case from the Board or Commissioner.

Nothing in this regulation to be construed as affecting the provisions of Regulation XX. 1810, or any modification of the latter regulation.

X. *First.* Nothing contained in this regulation shall be construed to affect or to alter the rules and provisions of Regulation XX. 1810, or to authorize the commanding officer of any corps or detachment to correspond with the civil courts, or with the collectors, regarding the merits of any judgment or order passed by them in the discharge of their official duty under the provisions of this regulation.

The provisions of this regulation not to be considered applicable to certain descriptions of persons.

Second. Nothing contained in this regulation shall be construed to modify, or to affect the existing rules for the trial of civil suits, in which persons who may have been discharged from the service, or who may be attached to provincial battalions, or to local or irregular corps, or who may be camp followers, or non-combatant retainers of the army, or who may be relations, or members of the family of a native officer or soldier, may be parties; the foregoing provisions of this regulation are to be considered as strictly and exclusively applicable to native officers or soldiers who may be entertained in regular corps, and on the actual strength of the army, on the establishment of the presidency of Fort William.

Substance of general orders of the 10th of April 1810, and 22d of July 1814.

XI. *First.* The following clauses of this section, forming the substance of general orders passed by the Vice-President in Council on the 10th April 1810, and on the 22d of July 1814, are hereby enacted, for general information.

Second. The sub-treasurer at the presidency, the residents at Delhi and Lucknow, the collectors of land revenue, and the paymasters at stations subject to the presidency of Fort William, including the paymasters who may at any time be serving beyond the territories of the Honorable Company, are hereby authorized to grant bills in duplicate, payable at sight, and at the usual rate of exchange, on any other treasury, for any sums which may be paid into their respective treasuries, on account of native officers or soldiers, who may be desirous of remitting money from one part of the country to another.

Facilities afforded to native officers and soldiers for the remittance of money.

Third. Provided that in all cases in which sicca rupees may be paid into a treasury by a native officer or soldier, he shall be entitled to receive the same amount at the treasury where payment is required, without any deduction whatever.

No deduction whatever to be made.

APPENDIX.

FORM No. 1.

Whereas I, A. B. inhabitant of village———*pergunnah*———in the district of———son of——— of the cast of———at present (here specify his rank)———the———battalion of the———regiment stationed at———having occasion to institute (or defend) an action for*———do hereby nominate and appoint C. D†———to be my attorney, (or *moktar*), and I bind myself to abide by whatever he the said attorney may do in my behalf in the prosecution‡ (or defence) of the said suit.

The said attorney will either prosecute (or defend) the suit in person, or will appoint one or more of the authorized *vakeels* of the court to prosecute (or defend) the same under the instructions of the said attorney, as he may think proper. In the event of an appeal being preferred from the judgment passed in the suit, the said attorney is further hereby empowered to act for me on the appeal, in like manner as on the original suit.

(Signed) ———
Executed in my presence,

Comdg.———Detacht. or Bat. or Regt.

FORM No. 2.

To ———

Register of the Civil Court of *Zillah*———

Sir,

In conformity with the third clause of Section 3, Regulation XV. 1816, I have the honor to transmit to you a power of attorney duly executed in my presence by A. B. son of C. D. of the cast of——— inhabitant of ——— officer or *sepoy* (as the case may be,) of the ——— battalion ——— regiment.

I am, Sir, &c.

Comdg.——Bat.——Regt.

FORM No. 3.

To ———

Commanding the———Battalion———Regiment.
at ———

Sir,

In conformity with the second clause of Section 4, Regulation XV. 1816, I have the honor to transmit to you the copy of a plaint filed in case No. ——— in this court by ——— against ——— stated to be an officer (or *sepoy*) in the corps under your command, together with a notice, which I request you will cause to be served on the said———You are requested to acknowledge the receipt of the notice, and to inform the court, whether it has been duly served on the above named———, or the reasons which may have prevented its being served on him.

I am, Sir, &c.

Dewanny Adawlut.

Judge.

* Here insert briefly the nature and object of the suit; and the name of the adverse party or parties.
† Here insert the name, place of residence, cast, and his relationship (if any) to the native officer.
‡ As the case may be.

FORM No. 4.

To ———

Register———

Zillah or City or Provincial Court.

Sir,

In conformity with the first clause of Section 5, Regulation XV. 1816, I have the honor to inform you, that the bearer of this letter A. B. son of C. D. of the cast of——— inhabitant of———officer or *sepoy* of the———Battalion———Regiment, &c.———has obtained permission to be absent from his corps for the period of———months, for the purpose of instituting (or defending) a suit in the *zillah*, city, or provincial court of———

I am, Sir, &c.

Comdg.———Bat.———Regt.

FORM No. 5.

To ———

Commanding Officer of the——Battalion——Regiment.

Sir,

I have the honor to inform you, that the right of (A. B.) in the village (or estate) of—— is about to be sold on account of arrears of public revenue for the year ——

In conformity with the first claue of Section 9, Regulation XV. 1816, I herewith enclose a written notice to be communicated to———said to be an officer (or *sepoy*) in the corps under your command, and who is alleged to be the proprietor (or sharer) of the village or estate in question.

You are requested to acknowledge the receipt of this letter, and to furnish the information required in the 2d clause of Section 9, Regulation XV. 1816.

I am, Sir, &c.

Judge.

Dewanny Adawlut.

A. D. 1817. REGULATION III.

A REGULATION *for diminishing the Expense to which Parties are Liable in original Suits or Appeals not exceeding Sixty-four Rupees in Value or Amount, when tried by the Zillah and City Judges, Registers, or Sudder Ameens; and for modifying and explaining some of the Rules contained in Regulation I.* 1814, *and in Regulation XXIII.* 1814.—PASSED *by the Governor General in Council, on the* 31*st January*, 1817; *corresponding with the* 20*th Maug* 1223 *Bengal era; the* 28*th Maug* 1224 *Fussily; the* 21*st Maug* 1224 *Willaity; the* 13*th Maug* 1873 *Sumbut; and the* 12*th Rubee-ool-uwal* 1232 *Higeree.*

Preamble.

WHEREAS parties in civil suits, not exceeding in value or amount sixty-four rupees, are now liable to disproportionate expense, when such suits are prosecuted in the *zillah* or city courts; and whereas it it expedient to render the provisions contained in Sections 15, 16, and 17, Regulation I. 1814, applicable to appeals, exceeding sixty-four rupees in value or amount, when such appeals are referred for trial to the *zillah* and city registers; and whereas it is expedient to remove certain doubts, which have arisen regarding the construction of the second clause of Section 49, Regulation XXIII. 1814; the following rules have been enacted, to take effect from the 1st of March, 1817, throughout the provinces immediately subject to the presidency of Fort William.

Certain provisions in Regulation XXIII.1814, declared to extend to all original suits and appeals which may be instituted in the *zillah* or city courts, not exceeding in amount the sum of sixty-four rupees.

II. The provisions contained in clause fourth, Section 25, in clause third, Section 29, and in clause first, Section 38, of Regulation XXIII. 1814, are hereby extended to all original suits or appeals, not exceeding in amount or value the sum of sixty-four rupees, which may be instituted in the *zillah* or city courts, subsequently to the date fixed for the operation of this regulation, whether those suits be tried by the *zillah* or city judges themselves, or be referred for trial to the *sudder ameens* or registers.

Sections 15, 16, and 17, Regulation I. 1814, applicable to appeals before registers, exceeding in value or amount the sum of sixty-four rupees.

III. The rates of stamp duty prescribed for the register's court by Sections 15, 16, and 17, Regulation I 1814, are hereby declared applicable to appeals from the decisions of *sudder ameens*, which may be referred for trial to the *zillah* and city registers, in all cases in which the amount or value originally adjudged against the appellant, shall exceed sixty-four rupees.

Explanation of Section 2, and clause second, Section 49, Regulation XXIII. 1814.

IV. Doubts having arisen, whether under the provisions of Section 2, and of the second clause of Section 49, Regulation XXIII. 1814, the plaintiffs or appellants in suits depending before the *moonsiffs* and *sudder ameens*, which may be adjusted by *razeenamah*, are entitled to receive the whole or any portion of the value or amount of the institution fee, in such suit, it is hereby declared, that the plaintiffs or appellants in suits, which may be adjusted by *razeenamah*, before the *moonsiffs* and *sudder ameens*, are not entitled to receive back any part of the value or amount of the fee in question, the whole of which is to be paid to the *sudder ameens* or *moonsiffs*, in conformity with the second clause of Section 49, Regulation XXIII. 1814.

A. D. 1817. REGULATION V.

A REGULATION *for declaring the Rights of Government and of Individuals with respect to hidden Treasure; and for prescribing the Rules to be observed on Discovery of such Treasure.*—PASSED *by the Governor General in Council, on the* 28*th February* 1817; *corresponding with the* 18*th Phaugun* 1223 *Bengal era; the* 26*th Phaugun* 1224 *Fussily; the* 19*th Phaugun* 1224 *Willaity; the* 12*th Phaugun* 1873 *Sumbut; and the* 11*th Rubee-us-Sanee* 1232 *Higeree.*

Preamble.

WHEREAS the provisions of the Mahomedan and Hindoo laws respecting the discovery of hidden treasure differ materially; and whereas it is deemed expedient that an uniform principle should be established for the guidance of persons by whom hidden treasure may be discovered; the following provisions are enacted, to be in force as soon as promulgated throughout the provinces immediately subordinate to the presidency of Fort William.

Hidden treasure under what circumstances and conditions to become the property of the finder.

II. Whenever any hidden treasure, consisting of gold or silver coin, or bullion, or of precious stones, or other valuable property, may be found buried in the earth, or otherwise concealed within any part of the territory subject to this presidency; and after due notification, the owner thereof may not be discoverable; such hidden treasure shall become the property of the person or persons who may have found the same, provided it shall not exceed in amount or value, the sum of one lack of sicca rupees; and provided the finder or finders shall have conformed to the rules prescribed in this regulation.

The finder how to proceed on the discovery of hidden treasure.

III. Whenever any person may find hidden treasure, of the description stated in the foregoing section, he shall give immediate notice thereof to the judge of the *zillah* or city in which the treasure may have been found; and shall at the same time deposit the treasure in the *zillah* or city court, with an exact inventory thereof.

Duty of the *zillah* or city judges in such cases.

Notification to be issued, and period allowed to claimants to bring forward their claims.

IV. The *zillah* or city judge receiving a deposit as above directed, shall return a receipt for the treasure deposited, after causing the same to be carefully compared with the inventory; and shall issue a public notification in the current languages of the country, to be published and affixed in his own *cutcherree*, and in the *cutcherree* of the collector of the district, requiring all persons who may have any claim of right to the treasure in deposit, to attend in person, or by *vakeel*, and prove their title thereto, within six months from the date of the notice.

Collectors of land revenue to bring forward any claim of right which Government may appear to possess to such treasure.

Summary inquiry to be instituted by the judges of *zillah* and city courts.

How judgment to be awarded by the judge.

V. It shall be the duty of the collectors of land revenue acting under the instructions of the Board of Commissioners, or the commissioner in Behar and Benares, or the Board of Revenue, to bring forward and to support, in conformity with the foregoing provision, any claim of right which Government may appear to possess to such treasure. In the event of any claim of right being preferred either on the part of individuals or of Government, pursuant to the prescribed notification, the judge shall institute a summary inquiry into the claim preferred; and if the title of Government or other person so claiming the treasure of deposit or any part thereof, be clearly established, he shall adjudge the same accordingly; subject to reimbursement of all expense incurred by the finder of the treasure, as well as to such compensation for the discovery of it as may, in each case, appear just and reasonable.

What judgment to be passed by the judge, in cases in which no claim shall be preferred either by Government or by individuals, and the amount may not exceed one lack of sicca rupees.

VI. If no claim of right be preferred either by Government or by an individual within the period limited by the notification directed in Section 4. of this regulation, or if the claim or claims so preferred shall not on a summary inquiry appear to be well founded; and the amount or value of the hidden treasure found at the same time, or in the same place, shall not exceed one lack of sicca rupees; the *zillah* or city judge shall adjudge the same to the person or persons who may have discovered the treasure, and deposited it in the *zillah* or city court, as required by Section 2; subject only to the actual expense which may have been incurred in adopting the measures prescribed by this regulation.

Decision to be passed by the judge in cases in which the amount of treasure shall exceed one lack of sicca rupees, and no claim of right thereto be established.

VII. If the amount or value of any hidden treasure found at the same time, or in the same place, shall exceed one lack of sicca rupees, and no claim of right thereto be established, judgment shall be given, according to the preceding section, in favor of the person or persons who may have discovered and deposited the treasure, to the amount of one lack of sicca rupees; and the excess above that sum shall be declared at the disposal of Government.

Persons discovering hidden treasure who shall neglect to give due notice within one month, shall be considered to have forfeited all right and title to the treasure and compensation.

VIII. If any person discovering hidden treasure of the description specified in Section 2. of this regulation, shall not, within one month after finding the same, give notice to the judge of the *zillah* or city court, in conformity with Section 4, and make the deposit thereby required, he shall be considered to have forfeited all right and title to the treasure; as well as all claim to a reimbursement of expense, compensation, or reward, under the provisions of this regulation; and the treasure so clandestinely withheld from public investigation shall, on a summary suit by any subsequent claimant of right, and proof of a just title thereto, be adjudged to the legal owner with interest and costs; or if no private claim be established, shall on the application of the *vakeel* of Government, under instructions from the Board of Revenue, or the Board of Commissioners in the western provinces, or the commissioner in Behar and Benares, be liable to confiscation to Government.

The summary decisions of the judges of the *zillah* and city courts shall be open to a summary appeal to the provincial courts.

IX. The summary decisions of the judges of the *zillah* or city courts, which may be passed under this regulation, shall be open to a summary appeal to the provincial courts, under the general rules in force relative to summary appeals.

The decision of two or more judges of the provincial courts on such appeals, to be final.

Provision for admitting a second summary appeal before the Sudder Dewanny Adawlut.

X. The decisions of two or more judges of the provincial courts, on such appeals, shall be final; unless the court of *sudder dewanny adawlut* should, on the face of the decree, or on inspection of any documents exhibited with it, see just and sufficient ground for admitting a second summary appeal to that court, in which case only such further appeal may be admitted, and proceeded upon under the general rules in force for summary appeals.

A. D. 1817. REGULATION VI.

A REGULATION *to explain the Purport and Intent of the Provision contained in Section 2, Regulation XXIV. 1803.—*PASSED *by the Governor General in Council, on the 11th April 1817; corresponding with the 30th Chyte 1223 Bengal era; the 10th Bysaak 1224 Fussily; the 1st Bysauk 1224 Willaity; the 10th Bysaak 1874 Sumbut; and the 23d Jumadee-ul-awul 1232 Higeree.*

Preamble.

WHEREAS doubts have been entertained with regard to the true purport and intent of the provision contained in Section 2, Regulation XXIV. 1803, and it is expedient to remove those doubts by a declaratory enactment, the following rules have been passed, to be in force throughout the provinces in which Regulation XXIV. 1803, has operation.

Explanation of the true purport and intent of Section 2, Regulation XXIV. 1803.

II. *First.* It is hereby declared, that the provision contained in Section 2, Regulation XXIV. 1803, was not intended to authorize the courts of civil justice to take cognizance of claims to any pensions of the nature alluded to in that section, the original title to which had not been previously recognized and confirmed by the revenue authorities or by Government, to whom the power of investigating and finally deciding on such original titles, is exclusively reserved.

Second. It was only intended by Section 2, Regulation XXIV. 1803, that pensions of the nature described in that section, which had been or might be regularly sanctioned and confirmed by the proper revenue authorities, or by Government, should not be liable to resumption on the death of the persons authorized to receive them; but should be regarded as property, descending to the heirs of the present and future receivers, and be liable to be sued for and inherited in the same manner as other property.

A. D. 1817. REGULATION XIX.

A REGULATION *for modifying and amending some of the Regulations in Force relative to the Administration of Civil Justice, and to the authorized Summary Process for Recovery of Arrears of Rent.*—PASSED *by the Vice-President in Council, on the* 16*th September* 1817; *corresponding with the* 2*d Assin* 1224 *Bengal era; the* 21*st Bhadoon* 1224 *Fussily; the* 3*d Assin* 1224 *Willaity; the* 6*th Bhadoon* 1874 *Sumbut; and the* 4*th Ze-Kadda* 1232 *Higeree.*

Preamble.

WHEREAS it will promote the convenience of persons residing at a distance from the stations of the provincial courts, to allow an option of instituting in the *zillah* and city courts, for trial in the first instance, original regular suits in which the cause of action may exceed five thousand, but not be more than ten thousand sicca rupees; and whereas it will also be convenient to persons residing at a distance from the *zillah* and city courts, and having to sue for small sums within the cognizance of a *moonsiff*, that the *moonsiffs* appointed under Regulation XXIII. 1814, should be empowered to receive and try suits cognizable by them, in which the cause of action may have arisen within three years antecedent to the institution of the suit, instead of one year as limited by Section 13. of the regulation above mentioned; and whereas some of the regulations now in force for the administration of civil justice, as well as the rules contained in Section 15, Regulation VII. 1799; Section 14, Regulation V. 1800; and Section 32, Regulation XXVIII. 1803; for a summary process on account of arrears of rent, have been found to require amendment; the following rules are accordingly enacted, for the several purposes above stated, to be in force as soon as promulgated throughout all the provinces immediately subject to the presidency of Fort William.

Parts of former regulations modified.

II. *First.* So much of the rule contained in the first clause of Section 5, Regulation XXV. 1814, and of any other regulation in force, as provides that all original suits, in which the amount or value of the claim calculated in conformity with Section 14, Regulation I. 1814, and Section 23, Regulation XXVI. 1814, may exceed five thousand sicca rupees, shall be instituted and tried in the first instance in the provincial courts, is hereby declared subject to the following modification.

Option granted to plaintiffs in cases of a certain amount or value to institute their suits either in the provincial court or in the *zillah* or city courts.

Second. If the amount or value of the claim, calculated according to the provisions of the sections above specified, be more than five thousand, but not exceeding ten thousand sicca rupees, it shall be optional with the plaintiff to institute a regular suit, in the first instance, either in the provincial court of the division, under the rules now in force, or in the *dewanny adawlut* of the *zillah* or city in which the land, house, or other immoveable property, constituting the subject of the suit, may be situated; or if the suit be not for immoveable property, in the *dewanny adawlut* of the *zillah* or city, in which the cause of action may have arisen; or the defendant may reside as a fixed inhabitant, when the suit against him is commenced.

Explanation as to the option given to plaintiffs in the preceding section.

III. *First.* The option given by the preceding section is not meant to extend to any suits already instituted in the provincial courts: nor to prevent, in future, an occasional exercise

exercise of the discretion vested in the court of Sudder Dewanny Adawlut by the first clause of Section 3, Regulation XXV. 1814; viz. if it appear, at any time, from the pressure of business in a *zillah* or city court, that suits depending therein, and exceeding one thousand rupees in amount or value, can be more conveniently and expeditiously tried in the first instance by the provincial court of the division, than by the *zillah* or city court before which they may be depending, to order the transfer of all or any of such suits to the provincial court.

Plaintiffs may petition a provincial court for the transfer of a suit instituted in a *zillah* or city court.

Second. It shall be competent to any plaintiff or plaintiffs, who may have instituted, in a *zillah* or city court, a suit transferrable to a provincial court under the above clause, to petition the provincial court, for the transfer of such suit; and if sufficient reason appear for the transfer desired, such as considerable delay in the trial of the suit by the *zillah* or city court, the provincial court will transmit the petition for the orders of the Sudder Dewanny Adawlut. But all parties in suits instituted in a provincial, *zillah*, or city court, under the option given by Section 2. of this regulation, are strictly prohibited from instituting a second suit in another court on the same cause of action, under penalty of such second suit being dismissed with costs, and a fine to Government, as declared in similar cases by Section 12, Regulation III. 1793; and Section 9, Regulation II. 1803.

But prohibited from instituting a second suit in another court for the same cause of action.

Penalty in such cases.

The existing provisions relative to cases where the cause of action may be disputed, declared applicable to suits not exceeding two thousand rupees.

IV. The provisions contained in Section 4, Regulation XIII. 1808, and in the second clause of Section 7, Regulation XXVI. 1814, relative to suits in which the plaintiff in a *zillah* or city court may state his cause of action as not exceeding five thousand sicca rupees, and the defendant may in answer, deny such statement, and allege the produce, amount, or value, to be such as to render the suit not cognizable by the *zillah* or city court, shall be considered applicable to suits instituted in the *zillah* or city courts, as not exceeding ten thousand sicca rupees, under the option given by Section 2. of the present regulation.

In suits for *malgusaree* land, not distinctly assessed, how the value of the property is to be assumed.

V. It being declared in Section 23, Regulation XXVI. 1814, that in suits for *malgusaree* land, not constituting an entire estate, distinctly assessed, or a specific proportion of such estate, the value of the land claimed is to be assumed and estimated according to clause third, Section 14, Regulation I. 1814; and a doubt having been entertained in what manner the rule cited in that clause from Section 3, Regulation IV. 1793, and Section 3, Regulation III. 1803, should be applied to the valuation of *malgusaree* lands, not distinctly assessed for the public revenue in some cases; particularly in boundary disputes, when the judgment for or against the plaintiff, may not occasion any alteration in the public assessment; it is hereby explained, that in all claims to a right of property, or to a permanent tenure of any description, in *malgusaree* land, not constituting an entire estate, distinctly assessed, with a *sudder jumma* payable to Government; or a specific proportion of such an estate, so as to come within the rule prescribed in the first clause of Section 14, Regulation I. 1814, the value of the land sued for is to be assumed at its computed annual rent produce, as described in Section 3, Regulation IV. 1793, and Section 3, Regulation III. 1803.

In cases where the suit is not for a right of property, how the valuation is to be formed.

If the suit be not for a right of property, or for a permanent tenure, but for a farm leasehold of any denomination, during a limited term; or for any interest in the land during a limited period only; the valuation of the plaintiff's claim, in pursuance of the regulations abovementioned, is to be made according to the nearest estimate that can be formed of the actual value of the thing sued for; or if the suit be for damages, the amount in which the plaintiff is endamaged.

Right of appeal under clause third, Section 3, Regulation XXV. 1814.

VI. *First.* In all original regular suits which may be tried and determined in the first instance by the *zillah* or city courts, under the provisions of this regulation, a regular appeal will lie to the provincial court of the division, in pursuance of the third clause of Section 3, Regulation XXV. 1814; subject to the general rules in force for such appeals.

Second or special appeals on such cases admissible under Section 2, Regulation XXVI. 1814.

Second. A second or special appeal from the judgments of the provincial courts in such cases, will also be admissible by the court of Sudder Dewanny Adawlut, under the restrictions established by Section 2, Regulation XXVI. 1814.

Special appeals allowed in cases, where decrees passed by one or more courts are inconsistent with each other.

VII. *First.* The restrictive provisions for second, or special appeals, prescribed in the first clause of Section 2, Regulation XXVI. 1814, allow of such appeals being admitted, when the judgment, against which the appeal may be preferred, shall appear to be inconsistent with some established judicial precedent: but this is not understood to include the case

of two opposite or inconsistent judgments passed by the same court, or by two courts having jurisdiction in the same suit, or in suits founded on a similar cause of action; though in such cases it is obvious, that one or both of the opposing judgments should be revised. It is therefore hereby provided, in addition to the grounds on which second or special appeals are declared admissible, in the first clause of Section 2, Regulation XXVI. 1814, that such appeals may be admitted, when the judgment against which the appeal is preferred shall, from the exhibition of another decree of the same court, or of another court having jurisdiction in the same suit, or in a suit founded on a similar cause of action, clearly appear to be in opposition thereto, or inconsistent with such other judgment.

Second. The court, empowered to receive the special appeal in such cases, shall be competent either to try the merits of the case, and pass a final judgment thereupon; or to refer the suit back for revision and a further judgment, by the court which shall have passed the original decision, or that given on the first appeal.

The court receiving an appeal may proceed and pass a final judgment, or refer the suit back for revision.

VIII. In the special appeals provided for by the foregoing section, as well as in all other appeals, regular or special, under the regulations in force, if the suit in appeal be referred back for further investigation and decision, without a judgment upon the merits of the case, the stamp duty paid by the appellant on his petition of appeal shall be returned to him; and if the appellant, or respondent, have appointed a pleader, his fee shall be limited to such sum as may be deemed an adequate compensation for his labour, not exceeding one-fourth of the established fee in a regular suit.

Stamp duty to be refunded in cases where appeals are referred for further investigation.

Limitation as to the fee to be paid to pleaders in such cases.

IX. *First.* Sections 32 and 33, Regulation XXVII. 1814, are hereby rescinded.

Provisions rescinded.

Second. The rule prescribed in the eleventh clause of Section 3, Regulation XXVI. 1814, relative to the fee receivable by pleaders employed in the summary appeals referred to in that section, shall be hereafter considered applicable to all summary appeals and original summary suits, authorized by the regulations, in which a pleader or pleaders may be employed.

Rule for the payment of pleader's fees in summary appeals and original summary suits.

Third. It shall not be requisite to make any deposit, in the first instance, for the fees of pleaders employed in summary original suits or appeals. But whatever amount of fees may be awarded to pleaders on the decision of the case, shall be paid into the court giving judgment for the same, by the party or parties declared responsible for the payment thereof, within such period as may be limited by the court for that purpose; under penalty for default of being compelled to make good, by the usual process of recovery, any additional sum, which the court, in consideration of the delay, may judge it proper to award to the pleaders entitled thereto in such cases.

Deposits on account of pleader's fees in such cases not requisite;

But fees awarded on the decision of a case to be paid into court;

Under penalty of such further sum as the court may direct.

X. *First.* The rule contained in the third clause of Section 25, Regulation XXVII. 1814, that for every sum which may be paid by a civil court to a *vakeel*, on account of his fees, he shall give a receipt, written on the stampt paper prescribed in Section 11, Regulation I. 1814, is modified as follows.

Modification of the rule which requires stampt receipts for pleader's fees.

Second. When the aggregate amount of fees payable to a *vakeel*, in two or more suits, may not exceed sixteen rupees, he shall be allowed to give a consolidated receipt for the total amount, specifying the sum receivable in each suit; instead of a separate receipt for the fee payable in each suit.

If the fees in several suits do not exceed sixteen rupees, one consolidated receipt for the whole to suffice.

XI. The rule prescribed in Section 11, Regulation XXVI. 1814, for the examination of witnesses, whose evidence may be required by the Sudder Dewanny Adawlut, or a provincial court, upon distinct written interrogatories to each witness, to be prepared and signed by the parties or their *vakeels*, having been found productive of delay and inconvenience, when several witnesses are to be examined on a point or points, not before investigated; a discretion is vested in the court of Sudder Dewanny Adawlut, and the provincial courts, to dispense with a strict observance of the rule above-mentioned in particular cases, when it may appear advisable. But in such cases the *zillah* or city judge, by whom the witnesses are to be examined, shall be furnished with specific instructions respecting the point or points, upon which their evidence is to be taken; and the depositions of the witnesses shall, if practicable, be taken by the judge himself, or by his register, instead of being left to a native officer, as authorized in cases of necessity by Section 11, Regulation XXIV. 1814.

Discretion vested in the Sudder Dewanny Adawlut and provincial courts to dispense with the rule requiring witnesses to be examined on written interrogatories in special cases.

On such occasions the judge to have specific instructions, and to examine the witnesses himself.

Extension of the period prescribed by clause first, Section 13, Regulation XXIII. 1814, for the trial of suits by *moonsiffs*.

XII. By the first clause of Section 13, Regulation XXIII. 1814, persons invested with the powers of *moonsiffs* under that regulation, are empowered to receive and try suits cognizable by them, provided the cause of action shall have arisen within one year previous to the institution of the suit. This period is now extended to three years; and after the promulgation of the present regulation, it shall be competent to *moonsiffs*, appointed under the provisions of Regulation XXIII. 1814, to receive, try, and determine, any suit cognizable by them, the cause of action in which may have arisen within three years antecedent to the institution of the suit.

The several judges invested with a discretionary power to try summary suits instituted under Regulation V. 1812.

Or to refer them to the collector.

Or to their registers as may appear best calculated to insure a speedy decision.

Such suits however to be referred to the collectors, when the judges or registers cannot decide upon them without delay.

XIII. *First.* By Section 21, Regulation V. 1812, and the second clause of Section 2, Regulation VII. 1813, it is provided that suits instituted under Regulation V. 1812, shall, with a view to expedite their decision, be referred, as soon as instituted, for the report of the collector of the district. In some instances however a strict adherence to this rule has, from different causes, operated to retard, instead of expediting, the investigation and decision of the suits in question. The judges of the *zillah* and city courts are therefore declared at liberty, in future, on the institution of summary suits, under any of the provisions of Regulation V. 1812, either to refer the same for adjustment and report to the collector of the district; or to investigate and decide such suits themselves, without reference to the collector; or to refer them for investigation and decision to their registers; as may appear most conducive to the speedy trial and determination of the suit in each instance.

Second. The judges of the *zillah* and city courts are at the same time enjoined to refer, for the collector's adjustment and report, as heretofore, all suits which are so referrible under the regulations in force; and which the judges themselves, or their registers, may be unable to try and determine without delay.

Registers when not officiating as judges, declared incompetent to refer suits to the collectors.

Rule of proceeding in cases where suits instituted under the existing regulations may be depending before a register.

XIV. A question having arisen whether the registers of the *zillah* and city courts are competent to refer suits to the collectors for adjustment and report; it is hereby explained, that registers when not officiating as judges, are not competent to make such references to the collectors of their own authority. But whenever a regular suit of the nature described in Section 13, Regulation VIII. 1794, and Section 2, Regulation VII. 1813, or a summary suit referrible to the collector of the district, under Section 15, Regulation VII. 1799, Section 14, Regulation V. 1800, Section 32, Regulation XXVIII. 1803, Section 21, Regulation V. 1812, or any other regulation in force, may be depending before the register of a *zillah* or city court; and the register shall be of opinion, that an adjustment of accounts by the collector will facilitate the investigation and expedite the decision of such suit; he shall report the same to the judge; who, if he concur with the register, will make the proposed reference to the collectors in the manner prescribed by the regulations; and on receiving the collector's report, will transmit the same to the register, before whom the suit may be depending; unless the judge shall think it proper to recall the suit from the register's court, and transfer it to his own, as authorized, for the more speedy administration of justice, or other reason, by Section 10, Regulation XXIV. 1814.

Petitions for the arrest of defaulting under-tenants and their sureties may be presented to the judge of the *zillah* or city in which the defaulter shall at the time reside.

XV. *First.* The provisions for a summary process against defaulting under-tenants and their sureties, contained in Section 15, Regulation VII. 1799, Section 14, Regulation V. 1800, and Section 32, Regulation XXVIII. 1803, suppose the under-tenant and his surety, at the time of a petition being preferred for their arrest, to be within the *zillah* or city jurisdiction, in which the land for which the arrear of rent is claimed (or the greater part of it, if in two jurisdictions) may be situated, as the summary inquiry provided for could not be regularly or conveniently made in a different jurisdiction; but to prevent an evasion of the authorized process against defaulting under-tenants and their sureties, it is necessary to make further provision for their arrest, when they may not reside, or be found within the limits of the *zillah* or city, in which the land tenanted by the defaulter is situated. It is therefore hereby provided, that whenever a dependant *talookdar*, *khutkinadar*, *jotedar*, or other under-tenant, or the surety of any such under-tenant, from whom an arrear of rent may be due, and who may have failed to discharge the same on demand, may reside, or be in a *zillah* or city, different from that wherein the land, for which the arrear of rent is due, may be situated, it shall be competent to the *zemindar*, or other proprietor or farmer of the land, to whom the arrear of rent may be owing, or his authorized agent, to present a petition specifying the particulars stated in the following clause, and praying

for the arrest of the defaulter, or his surety, to the judge of the *zillah* or city in which the defaulter or his surety may reside, or be; and the judge receiving the same shall immediately issue the process of arrest, directed in the third clause of Section 15, Regulation VII. 1799; and the corresponding clause of Section 14, Regulation V. 1800, and Section 32, Regulation XXVIII. 1803.

Who is immediately to issue the prescribed process of arrest.

Second. The petition of arrest, to be presented under the above clause, as well as any petitions for the arrest of defaulting under-tenants or their sureties, which may be hereafter presented under the regulations above mentioned, shall specify, besides the name and residence of the defaulter and surety, and the *mohaul* for which the balance of rent is claimed, the annual *jumma* of such *mohaul*; the amount demandable for the *kists* of the current year which may have become payable, the amount received from the tenant or his surety, and the balance actually due for the payment of which the arrest is desired. The petition shall also state whether the arrear claimed has been demanded from the defaulter or his surety, and the result.

What such petition is to contain.

Third. If the defaulter, or surety, against whom process of arrest may be issued under the first clause of this section, be found within the jurisdiction of the judge by whom the same shall have been issued; and after being arrested, he shall not pay the arrear demanded, or satisfy the party causing his arrest; and shall, in consequence, be brought to the local civil court, in pursuance of the rule contained in the regulations before noticed; the judge shall call upon him, to shew cause why he should not be sent to the judge of the *zillah* or city, in which the land, for which the arrear is claimed (or the greater part of it, if in two jurisdictions) may be situated; and if sufficient cause be not assigned, or substantial security given for attending the judge of the jurisdiction in which the land is situated, within a limited period, the party arrested shall be sent in custody of *mohussil peons* (at the charge of the party claiming the arrear) to the judge of the *zillah* or city, in which the land may be situated. A statement of the case with the original petition of arrest, and all other papers connected with it, shall at the same time be transmitted for the information of the judge, to whom the party in arrest may be sent in such cases. The petition of arrest, and all papers connected with it, shall likewise be sent to the judge of the *zillah* or city in which the land may be situated, whenever the party arrested may assign sufficient cause for not being sent as directed; or may give security for his attendance, which shall be accepted whenever substantial security may be offered.

How the judge is to proceed, in case a defaulter after such arrest shall not satisfy the party aggrieved;

Or shall not furnish security for his appearance before the judge of the *zillah* on which the land is situated.

What documents are to accompany the defaulter on such occasions.

In cases whose security is furnished, the petition of arrest and papers connected with it only to be forwarded.

Fourth. When a defaulting tenant, or his surety, may be brought to the court of the *zillah* or city in which the land is situated, or may attend under security for his appearance, in pursuance of the foregoing clause, the judge shall proceed as directed in similar cases, by the regulations in force, when the defaulter or surety may have been arrested within his own jurisdiction.

Judge of the *zillah* or city where the land is situated will then proceed against a defaulter as directed by the regulations.

XVI. *First.* Section 15, Regulation VII. 1799; Section 14, Regulation V. 1800, and Section 32, Regulation XXVIII. 1803, not containing any provisions for admitting alleged defaulters, or their sureties, to bail, whilst the prescribed summary inquiry is depending before the judge, register, or collector; the following additional rule is enacted for the guidance of the *zillah* and city court in such cases.

Rule for admitting defaulters and their sureties to bail.

Second. Whenever a dependant *talookdar*, *kutkinadar*, or other under-tenant of land, or his surety may be arrested, on the demand of an arrear of rent, under the summary process authorized by the regulations specified in the preceding section, and may deny that the arrear demanded or any part of it is owing; and such under-tenant, or surety, shall tender sufficient security for his personal attendance during the prescribed summary inquiry; it shall be competent to the judge to receive such security, and to admit the tenant or surety to bail, until the inquiry directed to be made in such cases, by examining the accounts and vouchers of the parties, or by referring the case for adjustment to the collector of the district, shall be completed, and a decision passed thereupon.

Judge on receiving sufficient security, may during a summary inquiry admit a defaulter or surety to bail.

A. D. 1819. REGULATION IX.

A REGULATION *for amending the existing Rules, with regard to the Admission of special Appeals; for requiring in certain Cases, from Residents within the Limits of Calcutta, Security for eventual Costs of Suit; and for extending the Powers of the Zillah and City Registers, and the Registers of the Provincial Courts in certain Cases.*—PASSED *by the Governor General in Council, on the 29th October* 1819; *corresponding with the* 14*th Kautic* 1226 *Bengal era; the* 26*th Kautic* 1227 *Fussily; the* 15*th Kautic* 1227 *Willaity; the* 12*th Kautic* 1876 *Sumbut; and the* 9*th Mohurrum* 1235 *Higeree.*

Preamble.

WHEREAS experience has shewn, that it would be conducive to the ends of civil justice, to modify and extend the existing rules, which limit to certain specific grounds, the admission of special appeals by the Sudder Dewanny Adawlut, and by the provincial courts of appeal; and whereas experience has also shewn the necessity of requiring previous security for eventual costs of suit, from residents within the limits of the city of Calcutta, who may become parties in an original suit, or respondents in an appeal in any of the courts of the interior; inasmuch as the existing rules require such security only from appellants, and parties other than appallents, being residents within the city of Calcutta, have in sundry instances evaded the payment of costs due from them under decrees of those courts; and whereas it is desirable further to facilitate the trial of appeals, from the decisions of the *zillah* and city registers, which are now cognizable by the judges of the *zillah* and city courts only; and whereas it has been judged expedient, in addition to the functions discharged by the registers of provincial courts, to authorize them to try civil suits, which may be referred to them by the judges of the *zillahs* or cities, within which the *cutcherrees* of the provincial courts of appeal may be situated; the following rules have been enacted, which are to be in force throughout the territories subject to the presidency of Fort William, from the date of the promulgation of this regulation.

Clause first, Section 2, Regulation XXVI. 1814, amended.

II. *First.* The rules contained in clause first, Section 2, Regulation XXVI. 1814, as far as regards the grounds for the admission of special appeals by the provincial courts of appeal and by the Sudder Dewanny Adawlut, are hereby amended as follows:

Under what circumstances provincial courts and Sudder Dewanny Adawlut may admit special appeals.

Second*. *In extension of the grounds to which the admission of special appeals is limited by the clause and section above quoted, it is hereby declared competent to the provincial courts of appeal, and to the Sudder Dewanny Adawlut, to admit a second or special appeal, whenever on a perusal of the decree of the lower court, from whose decision the special appeal is desired, there may appear strong probable ground, from whatever cause, to presume a failure of justice.*

Judges of *zillah* and city courts may recommend the admission of special appeals to provincial courts, in certain cases.

III. *First.* It is hereby declared competent to the judge of a *zillah* or city court, in any case in which no further regular appeal is open under the existing regulations, but in which either of the parties may be desirous of a further special appeal, to certify to the provincial

Rescinded by clause first, Section 4, Regulation II. 1825.

vincial court (where the circumstances demand it) that such case involves some point of general importance hitherto apparently unsettled, and fit to be reconsidered in a further appeal.

Provincial courts may also recommend the admission of special appeals to Sudder Dewanny Adawlut.

Second. The provincial courts are also declared competent to certify similarly, under analogous circumstances, to the Sudder Dewanny Adawlut.

The rejection of a special appeal by a provincial court, in cases certified by a *zillah* or city judge not to be final, but on stated grounds the Sudder Dewanny Adawlut may direct its being admitted.

Third. In the event of a provincial court declining, under the provisions of the second and following clauses of Section 2, Regulation XXVI. 1814, to admit a second or special appeal in a case certified to them as above, from a *zillah* or city court, and rejecting accordingly the special appeal, such rejection shall not be final, but it shall be competent to the Sudder Dewanny Adawlut, on petition by the party desiring the special appeal, to direct the provincial court to admit it, if on a consideration of the grounds which may be exhibited for a special appeal, it shall appear proper to the Sudder Dewanny Adawlut so to direct, under the provisions of clause first, Section 2, Regulation XXVI. 1814, as amended by this regulation.

The Sudder Dewanny Adawlut and provincial courts empowered to require the production of papers previous to admitting special appeals.

IV. The Sudder Dewanny Adawlut and the several provincial courts, previously to admitting a special appeal on application to them to that effect, are hereby declared competent to call for and peruse any document forming part of the record of the cause which they may deem proper, beside the document or documents presented by the party applying for the special appeal.

No special appeals to be admitted in the Sudder Dewanny Adawlut or provincial courts, without the concurrence of two judges of a court.

V. No special or second appeal shall be admitted hereafter by a provincial court, or by the Sudder Dewanny Adawlut, unless two judges concur in the propriety of its admission, under the rules applicable to the case, as amended by this regulation.

Foregoing rules not to affect the existing regulations regarding limitations of time, or prevailing forms.

VI. It is hereby declared, that nothing contained in the foregoing sections is intended to make any alteration in the existing rules with regard to the limitations of time, or with regard to any of the existing forms requisite for the admission of special appeals.

Security for costs in original suits on appeals to be given by residents in Calcutta, who are to provide responsible sureties.

Limitation of time for furnishing security.

Course of proceeding to be followed, if the plaintiff, or the defendant, or respondent, fail to furnish security.

No appeal in such cases to be allowed, until the costs of suit in the lower court have been paid.

VII. *First.* From and after the promulgation of this regulation, every person, being a resident of the city of Calcutta, who may desire to institute or defend an original suit, or to defend an appeal in any *zillah*, city, or provincial court, shall be required to furnish security for all eventual costs of suit, which may be adjudged payable by such person, and shall furnish such security by a surety or sureties residing and possessing property without the limits of Calcutta. Such security shall be furnished by a plaintiff within six weeks of the date on which his plaint is filed ; and a defendant or respondent shall furnish it within six weeks of the date on which the usual summons is served on him. Unless such security be so furnished, the suit of such person, if plaintiff, shall not be proceeded in ; if defendant or respondent he shall not be allowed to defend his suit or appeal ; but the cause shall be decided *ex parte* on the statements and proofs of his opponent. And no appeal shall be admitted from the party who may have failed to give the required security, until he shall first have made good the whole of the costs demandable from him in the lower court.

The foregoing rules declared applicable to persons becoming residents of Calcutta, pending any suit or appeal.

Second. The same rule shall be applicable, and the same mode of proceeding shall be observed, in the event of any person who may have instituted or defended any original suit, or defended an appeal in a *zillah* city or provincial court, becoming a resident of Calcutta, before a decree is passed on such suit or appeal, and failing to give the required security within six weeks of its being demanded by the court ; and such demand the court is hereby required to make immediately on the circumstance becoming known, even though no motion should be made to that effect.

But not applicable to persons suing in *formâ pauperis*.

Third. It is however provided, that nothing contained in this section, shall be considered applicable to pauper suitors coming within the provisions of Regulation XXVIII. 1814.

Judges of *zillah* and city courts empowered to refer appealed causes to registers for decision.

VIII. *First.* In addition to the special powers which, under the provisions of Section 9, Regulation XXIV. 1814, may now be conferred upon *zillah* and city registers, it is hereby further provided, that it shall be competent to the Governor General in Council, on the recommendation of the Sudder Dewanny Adawlut, to invest any person exercising the functions of a register of a *zillah* or city court, with powers to try and determine depending appeals from decisions which may have been passed by another register, on the class of suits specified

in Section 8. of the regulation above mentioned. The *zillah* and city judges are hereby authorized to refer to registers so empowered, any suits of the description above adverted to, and such registers will be entitled to the same fees as they would have received, had the suits in question been tried by them in the first instance.

Fees.

Second. No person however shall be vested with the power in question, who may not have been employed in the judicial department for a period of at least six years, nor shall he be competent to try such appeals except in cases in which the original decision may have been passed by a register junior in the service, to the individual on whom the special power in question may be conferred.

Qualification necessary to enable them to decide on such appeals.

Prohibition against their hearing appeals in cases decided by their seniors in the service.

Third. The provincial courts are empowered to admit a second or special appeal, from the decisions which may be passed by registers under the foregoing clauses of this section, and such special appeals are to be admitted and tried in the same manner as other special appeals, cognizable by the provincial courts.

Provincial courts empowered to admit and decide on such special appeals.

IX. The judges of the *zillahs* and cities, within whose jurisdiction the *cutcherrees* of the provincial courts may be respectively situated, are hereby authorized to refer to the register of such provincial court, any original civil suits cognizable by the *zillah* and city registers, under Section 8, Regulation XXIV. 1814, and which may be now or hereafter depending in the *zillah* or city courts. In the trial of such suits, the registers of the provincial courts will exercise the same powers, and will be guided by the same rules, as those which are applicable to the *zillah* and city registers generally, and they will also be entitled to the same fees on the decision of suits as the *zillah* and city registers, but they will be careful that the trial of such suits be not allowed to interfere with their primary duties as registers of the provincial courts.

Zillah and city judges empowered to refer suits cognizable by their registers to the registers of provincial courts.

Fees.

Such suits not to interfere with their duties as registers of provincial courts.

A. D. 1821. REGULATION II.

A REGULATION *for increasing the Powers of Moonsiffs; for extending in special Cases the Powers of Sudder Ameens in the Trial and Decision of Civil Suits; and for authorizing the Zillah and City Registers and Sudder Ameens to discharge certain additional Duties under the Direction of the Zillah and City Judges; for providing for an Increase in the Number of Moonsiffs when necessary; and for authorizing Sudder Ameens to hold their Cutcherrees at any Place where there may be a Register holding his Court at a Distance from the fixed Station of the Judge and Magistrate; also for amending the Rules at present in Force for the Institution of Suits connected with the local Jurisdiction of such Registers; for rescinding such Parts of the existing Regulations as authorize the Registers of Civil Courts to receive a Proportion of the Institution Fees on Suits which may be referred to them for Decision; for altering in certain Cases the Rule at present in Force for the Execution of Decrees of the Provincial Courts in original Suits, and of the Decrees of the Court of Sudder Dewanny Adawlut on Appeals from such Decrees; and for abolishing the Office of Register of the Provincial Courts of Appeal and Circuit.* —PASSED *by the Governor General in Council, on the* 19*th January* 1821; *corresponding with the* 8*th Maug* 1227 *Bengal era; the* 1*st Maug* 1228 *Fussily; the* 9*th Maug* 1228 *Willaity; the* 1*st Maug* 1877 *Sumbut; and the* 14*th Rubbi-us-Sanee* 1236 *Higeree.*

Preamble.

WHEREAS from the contracted powers exercised by the subordinate judicial officers, European and native, under the existing regulations, a much larger proportion of business devolves on the *zillah* and city judges than can properly be discharged by them; and whereas the relieving them from part of that business by increasing the powers of the registers, *sudder ameens*, and *moonsiffs*, will tend to expedite the general administration of justice; and whereas it has become necessary to provide for an increase in the number of *moonsiffs*, in consequence of the number prescribed by the regulations of one to each *thana* jurisdiction, having been found in some places insufficient; and whereas great inconvenience is experienced from the want of *sudder ameens* at those places where registers are permanently fixed at a distance from the *sudder* station, as well as from the said registers not being vested with powers to admit suits arising within the limits of their local jurisdiction; and whereas it is expedient, with a view to afford still further relief to the judges of the *zillah* and city courts held at the same place with the provincial courts, that the provincial courts should execute their own decrees in original suits, and the decrees of the Sudder Dewanny Adawlut in appeals from such original suits within the local limits of the jurisdiction of the aforesaid judges; and whereas it is also expedient that the judges of the *zillah* and city courts should be empowered to refer summary suits to any amount for the recovery of arrears of rent, and for possession of land, crops, and other property in cases of forcible dispossession, to such of their registers as may be vested with any of the special powers specified in Regulation XXIV. 1814; and whereas it is also expedient to substitute a fixed allowance in lieu of the fees hitherto granted to the registers of *zillah* and city courts on the decision of civil suits, and to abolish the office of register to the provincial courts of appeal and circuit; the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the presidency of Fort William.

Judges and registers of city and *zillah* courts empowered to hold their proceedings at any place within the jurisdiction of the court to which they may be attached.

Proviso.

Second. The judges and registers of the *zillah* and city courts are empowered to hold their proceedings in summary suits regarding rent or dispossession from lands, or crops, or disturbance in the possession thereof, at any place within the jurisdiction of the courts to which they may be respectively attached; provided that the cause of action shall have arisen within the limits of such jurisdiction, and that the *zillah* or city judge or register shall be of opinion, that the investigation of the case can be more conveniently conducted at such place than at the *sudder* station.

Pleaders of the courts exempted from attending the trial of summary suits when conducted at a distance from the fixed station of the judge or register.

Third. The established pleaders of the *zillah* and city courts shall not be required to attend the trial of summary suits at a distance from the fixed station of the judge or register. Such suits shall be tried in the presence of the parties, or any persons whom they may duly appoint to be present at the trial on their behalf.

Those rules declared equally applicable to summary suits referred to the collectors.

Fourth. The principle of the foregoing rules is hereby declared to be equally applicable to summary suits referred for investigation to the collectors.

Modification of rules in force, which direct that suits referrible to registers shall in the first instance be instituted in the courts of the judges.

XI. *First.* Such parts of the regulations in force as require that suits referrible to a register shall be instituted in the first instance in the courts of the *zillah* and city judges, are hereby declared subject to the following modifications.

Registers at other than the fixed stations of the courts may in the first instance receive original suits or appeals.

Second. It shall be competent to a register stationed at any other place than the fixed station of the *zillah* or city court, to receive in the first instance any original suits or appeals, which may be eventually referrible to him under the regulations in force, in which the cause of action may have arisen, or the parties may reside, within the local jurisdiction entrusted to him as joint magistrate of the district of which he may be the register, or officiating in that capacity.

How registers are to proceed on the receipt of such suits or appeals.

Third. When an original suit or appeal shall be preferred to a register under the provisions of the preceding clause, he shall, after receiving the same, enter it in the register usually kept for that purpose, and shall forward by dawk or otherwise, a copy of the petition of complaint or appeal, together with copies of any other papers connected with it that may be necessary, to the *zillah* or city court, for the orders of the judge, who, after causing the same to be registered, will either authorize the suit to be tried and determined by the register, or the *sudder ameen* stationed with the register, according to the nature or amount of the suit; or will require the case to be transmitted for trial, either by himself, or any other competent authority. In the latter case, the plaintiff or appellant shall be required to attend in person, or by *vakeel*, to prosecute the suit in the court in which the case may have been ordered to be tried, at the *sudder* station.

Registers, when at others than the fixed station of the court, authorized to receive applications for the execution of *sudder ameens* and *moonsiffs'* decrees.

And empowered to execute them, or to refer them for such purpose to the *sudder ameens*.

XII. All applications for the execution of decrees passed by the *sudder ameens* and *moonsiffs*, within the local jurisdictions of the register fixed at any other than the *sudder* station of the *zillah* or city court, are hereby authorized to be received by such registers, who shall be competent to execute them themselves, or to refer them for execution to the *sudder ameens* within their respective jurisdictions, in the mode prescribed by clause third, Section 7. of this regulation. Appeals from the orders of the *sudder ameens* shall in like manner be made in the first instance to the said registers.

Appeals from *sudder ameens'* orders to be made to the registers.

Certain clauses of regulations which authorize registers to receive fees on the amount of stampt duty on the decision of suits, rescinded.

XIII. The several clauses of Sections 8. and 9, Regulation XXIV. 1814, and generally any other provisions of the regulations, which authorize the registers of the *zillah* and city courts to receive a proportion of the fees, or the amount of stamp duty substituted for such fees, by Regulation 1. 1814, on the decision of suits referred to them for trial, are hereby rescinded. The registers of the *zillah* and city courts shall not be entitled to any fees whatever on account of any civil suits decided by them, subsequently to the 30th of April next ensuing, but are to receive from the 1st of May next, in lieu of such fees, a fixed allowance, the amount of which will be determined by Government.

Registers declared not entitled to fees subsequent to the 30th April, 1821.

The office of register of the provincial courts abolished, and their duties to be performed by the judges and the officers attached to their respective establishments.

XIV. The office of register of the provincial courts of appeal and circuit shall be abolished from the 1st of May next ensuing, and the duties hitherto entrusted to those officers shall be performed by the judges of the provincial courts, and by the officers on their establishment, in such mode and under such rules as may be enjoined by the court of Sudder Dewanny Adawlut and Nizamut Adawlut.

A. D. 1823. REGULATION VI.

A REGULATION *for authorizing the Institution of summary Suits to enforce the Execution of certain written Engagements for the Cultivation and Delivery of Indigo Plant, and for declaring certain Principles in Regard to the same.*—PASSED *by the Governor General in Council on the* 10*th July* 1823 ; *corresponding with the* 27*th Assaar* 1230 *Bengal era ; the* 17*th Assaar* 1230 *Fussily ; the* 28*th Assaar* 1230 *Willaity ; the* 2*d Assaar* 1880 *Sumbut ; and the* 29*th Sawaul* 1238 *Higeree.*

THE poverty of the lower orders in India, and particularly of those employed in agriculture, occasions the general use of borrowed capital for the production of the chief articles of trade and consumption. The capitalist advances his money and sometimes the seed likewise, upon a contract to receive the produce of a defined quantity of land, either at a certain fixed price, or at rates to be subsequently determined with reference to the marked price at a specified season; and this system is understood, generally, to prevail in the province of Bengal, in the cultivation of the plant from which the indigo dye is extracted. According to the existing regulations, if the contracting *ryot* should fail to cultivate the land in the manner specified, or having so cultivated the land, should sell the produce to another, or otherwise defraud his creditor and fail to execute his contract by delivery of the stipulated article, the person with whom he has so contracted has no other remedy than a regular action for the recovery of the penalty conditioned in the agreement. It is usual for the courts of justice, in decreeing such causes, to award such limited penalty as may, in each instance, appear to be a fair compensation to the person making the advances, for the non-employment of his capital. In the absence, however, of any rule for the regulation of the discretion thus assumed, much confusion has arisen from the conflicting opinions and judgments of the several judicial officers, as to the extent of penalty recoverable on agreements of this nature. Under the rules for imposing a stamp duty, it is provided, that all deeds and agreements shall be written on paper bearing a certain stamp, proportioned "to the value of the property transferred, or otherwise affected." But in agreements of the kind above described it is not clear whether the amount of the stamp ought to be fixed with reference to the sum actually advanced, or to the penalty or penalties which may be specified as eventually exigible on the failure of the contractor; and it is of great importance to the parties, that this point should be determined so as to prevent the risk of *bonâ fide* deeds being rendered void, in consequence of any inaccuracy in the description of stamp paper employed in drawing up the agreement. It seems reasonable also, that the person who advances seed and capital, or capital only, for the expenses of cultivation on a defined parcel of land, should be considered to possess a lien and interest in the indigo plant produced on that land, when so stipulated in a written engagement between the parties, and especially in cases in which such written engagement may have been duly registered, under the provisions of Regulation XX. 1812, and that it should not be in the power of a *ryot*, who has already conditioned for the delivery of the produce of his land to one person, to break the condition by a clandestine and fraudulent transfer of such produce to another. The system at present in force provides, as above observed, no other remedy for parties injured by this dishonest practice, than by a regular action in the

Preamble.

civil court. The difficulty and delay of obtaining redress by that course, have not unfrequently led to acts of violence and even to serious affrays, and the more frequent occurrence of such affrays is to be apprehended, in consequence of the eager competition which now prevails amongst the indigo manufacturers in some parts of Bengal, arising from the unusually high price of indigo. The Governor General in Council has in consequence judged it expedient to declare the principles on which the points above stated shall be settled, and to provide for the more prompt adjustment of disputes, and enforcement of contracts of the nature above specified; and the following rules have accordingly been passed, to take effect in the several districts comprised within the province of Bengal, from the date of their promulgation.

Under what circumstances persons making advances for the cultivation of the indigo plant, on defined portions of land, shall be held to have a lien or interest in the produce of such land.

II. If any person shall have given advances to a *ryot* or other cultivator of the soil under a written engagement, stipulating for the cultivation of indigo plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place,—such person shall be considered to have a lien or interest in the indigo plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided, for the protection of his interests, and for the due execution of the conditions of the contract.

Such person how to proceed, when he has just reason to believe, that the *ryot* will dispose of the produce otherwise than stipulated.

III. *First.* If any person who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual, under engagement with him, is evading or is about to evade the execution of his contract, by making away with, and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the *zillah* or city judge, or to a register exercising the powers of joint magistrate, within whose local jurisdiction the land stipulated to be cultivated with the indigo plant may be situated, filing with the same the original deed of engagement, by which the produce may be assigned and engaged to be delivered to himself or at his factory, and certifying in his petition, that such deed was voluntarily and *bonâ fide* executed by the individual complained against.

Summons to be issued for the attendance of the defendant.

Second. On such petition and original deed of engagement being filed, a summons, or *tulub chittee*, shall be immediately issued through the *nazir* in the usual form, requiring the individual named in the petition to attend and answer to the complaint, either in person or by an authorized agent, within such specified period as may, in each instance, appear reasonable, and which period shall in no case exceed twenty days.

Summons how to be served.

Third. The officer entrusted with the execution of the process shall also be instructed to affix a copy of the summons in the village *cutcherree*, or other place of public resort, and to erect a bamboo on the specific parcel of ground on account of which the claim may have been preferred, and which it shall be the duty of the plaintiff or his agent to point out. By

And public notice of the claim, how to be given.

these means sufficient public notice of the claim will be given, to enable persons desirous of contesting the plaintiff's right, or of establishing a prior right to the produce of the land, to appear either in person or by an authorized agent before the court for that purpose, and the failure so to attend before the summary decision be passed, will be held to bar the claim of any third party founded on any contract for the produce of the land in question, unless it be established by a regular suit.

On non-appearance of defendant or other claimants, evidence to be taken, and the case decided *ex parte*.

Fourth. If the officer serving the process shall not be able to execute it on the person of the defendant, he shall nevertheless publish the claim in the manner above directed, and if the defendant shall not appear to answer to the complaint within the period specified in the summons, and no other claim be preferred in bar of that of the plaintiff, the judge or other officer shall, after taking evidence to establish the deed and other allegations of the plaintiff, proceed to the adjudication of the claim, in the same manner as if the defendant had personally appeared.

In what cases an award shall be passed, adjudging the plaintiff's right to the produce.

Fifth. If the defendant or his authorized agent should attend within the period specified, and should deny the execution of the deed of engagement filed by the complainant, proof of the same shall be taken, and if its voluntary execution be established to the satisfaction of the court, or other tribunal trying the case, and no preferable claim be established by a third party, a summary award shall be made, adjudging to the plaintiff the right of receiv-

ing the crop according to the terms of the agreement. The same principle shall be applied if the engagement be admitted, and no satisfactory reason be shown why the defendant should not be held to the performance of his contract.

If the plaintiff's claim be not established, the plaintiff to pay costs and compensation to the defendant.

Sixth. If it be proved that the engagement was not duly and voluntarily executed by the defendant, or if it should appear that the proceeding is otherwise litigious and oppressive, and the claim unfounded, or that the plaintiff had no sufficient cause to warrant his application to the court, the complaint shall be dismissed, and the plaintiff shall be made liable to the payment of costs, and such reasonable sum in addition, as may seem to the judge, or other officer trying the case, a proper compensation to the defendant for any trouble and annoyance to which he may have been subjected.

Notice to be given to third parties in what cases, and their claims how to be investigated.

Seventh. If it should appear in the course of the inquiry, that the defendant is under engagement for the same land to a third party, notice shall immediately be issued for that party to appear and plead, either in person or by *vakeel;* and if such person or any third party shall, previously to the decision of the case, come forward and produce a similar deed of engagement, stipulating for the produce of the same portion of land, the judge, or other officer trying the case shall, after such summary investigation as may be necessary, determine whether either of the parties have any just claim to the produce of the land, and if so, which of them may have the prior and better claim; a preference will of course be given to engagements duly registered under the provisions of Regulation XX. 1812. The result of such investigation shall be recorded, and a decree passed, adjudging the question of right between the parties.

Defendant not to be subjected to unnecessary detention.

Eighth. No defendant, who may attend under the process described in this section, shall be confined in jail or be in any manner detained longer than may suffice to take his answer to the claim, and to obtain from him such further explanations as the nature of the answer may suggest.

In what cases an order may be issued to deliver the plant to a party, before the summary inquiry may be completed.

Engagement to be entered into by such party.

Ninth. If pending the summary inquiry in the manner above directed it shall appear, that the plant on the ground is in a state fit to be cut, and will be injured or destroyed if not cut, it shall in such case be competent to the judge or other officer trying the case, to pass an order for the delivery of the plant to either of the parties, provided that the said party consents and engages to pay to the other claimant (if the summary award should be ultimately in favour of the latter) a specific pecuniary compensation; the amount of such compensation shall be fixed by the judge, or other person trying the case, in communication with the parties, and shall be regulated with reference to the estimated produce of the ground, and to the probable value of such produce when manufactured, and the amount when so fixed, shall be carefully recorded on the proceedings.

Authority to watch fields and to prevent removal of the plant, given to parties in certain circumstances.

IV. *First.* Any person in whose favour a summary award shall have been passed for the produce of any defined spot of land, shall be entitled to place a watch over the same, and to prevent the cutting and removal of the plant in any manner contrary to the stipulations of his agreement, and in the event of any attempt being made to cut or remove the plant, it shall be competent to the person holding the decree to apply to the nearest police *darogah*, and to claim from him the assistance of the police in preventing such removal; it shall moreover be the duty of the police officers, and of all other officers, on such a decree being exhibited, to aid the person in whose favour it may have been passed to the utmost of their power.

Security for rent due to landholders, how provided.

Second. In order that the foregoing rule may not operate to the prejudice of the landholders, who, by the existing regulations, are authorized to attach the crops for the realization of rents justly due to them, it is hereby provided, that whenever any manufacturer, who may have obtained an award under the foregoing rules, may cause the plant to be cut and taken away; he shall be held responsible conjointly with the *ryot*, for any arrear of rent which may have been due on account of the specific parcel of ground, from which the indigo plant may have been taken.

Parties injured by breach of contract in regard to the cultivation and delivery of indigo plant, may institute either a summary or regular suit.

V. *First.* In cases in which a *ryot* who may have received advances and entered into written agreements for the cultivation and delivery of indigo plant in the manner indicated in this regulation, shall have failed to cultivate the ground specified, or having cultivated it, shall have failed or refused to complete his engagement, or shall have sold, made

away with, or transferred the produce to another person, the party with whom such agreement was first made, shall be at liberty to institute, at his option, either a summary or a regular suit.

Judgment, to what extent in summary suits.

Second. If the summary process be adopted, and the cause be decided in favour of the plaintiff, the defendant shall be subjected to the payment of the amount of the advances actually received by him, with interest on the same, and the costs of the summary process.

Ditto in regular suits.

Third. If the plaintiff should prefer to seek his remedy by a regular suit, the case will be tried and decided, under the principles of the general regulations; provided however, that where a *ryot* shall have voluntarily executed a deed of engagement, stipulating to cultivate indigo plant on a specified portion of land, and to deliver the produce of such land to one individual, and shall have subsequently sold and delivered such produce to another, the aggrieved party shall be at liberty to prosecute the *ryot* and the individual to whom such produce was sold or delivered conjointly, and if it be established, that the individual receiving the produce was at the time aware of the prior engagement, such individual and the *ryot* shall be jointly and severally held answerable for the full amount of the penalty specified in the original agreement, together with all costs and expenses of the suit.

Amount of penalty to be awarded in regular suits, where the breach of contract may not be ascribable to fraud or dishonesty.

Fourth. If no fraud or dishonest dealing be established, and the failure of a *ryot* or other contractor to execute the stipulations of his engagement by the delivery of indigo plant in the manner stipulated, be owing to accident or to any cause not implying fraud or dishonesty, the penalty to be adjudged against a contractor shall not exceed three times the sum advanced, as the consideration for executing the deed, including interest.

Summary investigations, how and by whom to be conducted.

VI. Summary investigations, under this regulation, shall be conducted according to the form and in the manner prescribed for the conduct of summary suits for arrears of rent: they shall either be tried by the judge, or be referred to the collector of the district, or to the register. In cases referred to the collector, that officer (as well as the register) shall pass a decision on them, instead of sending them back to the judge with a report, and there shall be no appeal from any summary decision passed by those officers respectively, if regularly made, and in a matter duly cognizable under this regulation: it shall nevertheless be competent to any person whose claim under a deed of engagement for the cultivation and delivery of indigo plant may have been set aside by a summary award, or who may be otherwise dissatisfied with the decision passed on a summary investigation under the foregoing provisions, to institute a regular suit for the recovery of the penalty stipulated in the deed of engagement, or for the establishment of any other claim or interest to which he may deem himself entitled.

Explanation of the value of stamp paper employed in engagements for the cultivation and delivery of indigo plant.

VII. No objection shall be taken against any deed of contract for the cultivation and delivery of indigo plant on account of its not bearing the proper stamp, provided that the same be executed on paper bearing a stamp of such an amount, as would be required under the rules of Section 11, Regulation I. 1814, for a bond of the amount actually advanced or acknowledged to be advanced as the consideration for entering into the agreement.

Such deeds not invalid, in consequence of their including several individuals, and several separate transactions.

VIII. No objection shall be taken to the validity of any deed of engagement for the cultivation and delivery of indigo plant, on the ground of its having been entered into by more than one individual, or of its including more than one transaction; provided that the obligation of each individual be distinctly specified, and the amount of the stamp be such as would have been required for a bond of an amount equal to that of the aggregate of all the sums acknowledged to have been advanced.

A. D. 1824. REGULATION III.

A REGULATION *to empower Government to extend the Jurisdiction of Registers in certain Cases.—Passed by the Governor General in Council, on the 12th February* 1824; *corresponding with the 1st Phaugun* 1230 *Bengal era; the 27th Maug* 1231 *Fussily; the 2d Phaugun* 1231 *Willaity; the 12th Maug* 1880 *Sumbut; and the 11th Jumadee-us-Sanee* 1239 *Higeree.*

Preamble.

BY the provisions of Regulation II. 1815, it is made competent to the Governor General in Council to invest a register stationed at a place not being the station of the *zillah* or city *dewanny adawlut*, with original jurisdiction in the cognizance and trial of summary suits originating in portions of districts different from the district to which such register may stand appointed. With a view to the farther relief of the judges of the *zillah* and city courts from the arrears of business depending before them, it is expedient to make it competent to the Governor General in Council to extend the jurisdiction of such registers in regular suits. The following rules have accordingly been enacted, to be in force from the period of their promulgation throughout the provinces immediately subject to this presidency.

Registers may be empowered to investigate regular suits arising in any portion of any district, in which he may exercise the powers of joint magistrate.

II. *First.* It shall be competent to the Governor General in Council to extend the jurisdiction which may be vested in a register, with regard to the cognizance and trial of regular suits under the provisions of Regulation XXIV. 1814, Sections 11, 12, and 13, Regulation II. 1821, and the other rules in force upon the subject, to those portions of other districts in which such register may be authorized to exercise the powers of joint magistrate.

Provisions in the existing regulations, applicable to such suits.

Second. The provisions contained in the existing regulations for the guidance of registers stationed at a distance from the *sudder* station, shall be equally applicable to the trial and decision of suits which may be instituted before them or referred to them under the foregoing clause.

Reports to be furnished by such registers to the judge of the *zillah* or city within whose jurisdiction the suit may have originated.

Third. All periodical and other reports prescribed by the regulations, or the order of the Sudder Dewanny Adawlut, shall be furnished by such registers, to the judge of the *zillah* or city courts within whose jurisdiction such suits may have originated.

A. D. 1824. REGULATION V.

A REGULATION *for extending the Operation of Regulation VI.* 1823, *to the Provinces of Orissa, Behar, and Benares, and to the ceded and conquered Provinces.—Passed by the Governor General in Council, on the 4th March* 1824; *corresponding with the* 22*d Phaugun* 1230 *Bengal era; the* 19*th Phaugun* 1231 *Fussily; the* 23*d Phaugun* 1231 *Willaity; the* 3*d Phaugun* 1880 *Sumbut; and the* 2*d Rujeeb* 1239 *Higeree.*

Preamble.

WHEREAS it has been deemed expedient to extend to the provinces of Orissa, Behar, and Benares, and to the ceded and conquered provinces, the operation of Regulation VI. 1823, entitled "a regulation for authorizing the institution of summary suits, to enforce the execution of certain written engagements for the cultivation and delivery of indigo plant, and for declaring certain principles in regard to the same," the following rule has been enacted, to take effect in the provinces above enumerated from the date of the promulgation of this regulation.

Regulation VI. 1823, extended to the provinces of Orissa, Behar, and Benares, and to the ceded and conquered provinces.

II. The operation of the provisions of Regulation VI. 1823, is hereby extended to the provinces of Orissa, Behar, and Benares, and to the ceded and conquered provinces.

A. D. 1824. REGULATION XIV.

A REGULATION *for modifying the Rules in Force for referring to the Collectors summary Suits in Cases of Arrear or Exaction of Rent.*—PASSED *by the Governor General in Council, on the* 22*d July* 1824; *corresponding with the* 8*th Sawun* 1231 *Bengal era; the* 11*th Sawun* 1231 *Fussily; the* 9*th Sawun* 1231 *Willaity; the* 11*th Sawun* 1881 *Sumbut; and the* 24*th Zekaad* 1239 *Higeree.*

Preamble.

THE provisions contained in the regulations now in force, empowering the judges of the several *zillah* and city courts to refer to the collectors for adjustment and report summary suits relating to arrears or exactions of rent, have been found insufficient to expedite the trial and adjudication of such suits; and it has in consequence become indispensable to the attainment of that object that the revenue officers should be vested with authority to hear, investigate, and determine, by a summary process, and subject to a regular suit in the civil court, all suits, claims, and demands of rent, arrears or exactions of rent, between landholders or farmers of land, and their under-tenants, or between any other persons concerned in the receipt and payment of the land rents, which may be referred to them for that purpose by the judges of the *zillah* and city courts; the following rules have been accordingly enacted, to be in force from the date of their promulgation throughout the territories immediately subject to the presidency of Fort William.

Parts of former regulations modified.

II. *First.* Such parts of Regulations VII. 1799, V. 1800, XXVIII. 1803, V. 1812, VII. 1813, and XIX. 1817, or of any other regulation in force, as direct or authorize the judges of the *zillah* and city courts to refer summary suits relative to arrears or exactions of rent, or any summary suits within the provisions of the regulations above noticed, to the collectors of the land revenue for adjustment and report, are hereby modified as follows.

A judge referring to a collector summary suits under Section 13, Regulation XIX. 1817, shall issue a precept requiring him to try and decide the suit within a limited period;

Or assign a sufficient reason.

Second. Whenever the judge of a *zillah* or city court court, under the discretion vested in him by Section 13, Regulation XIX. 1817, may consider it proper, with a view to the speedy trial and determination of any summary suit of the nature therein mentioned, to refer the same to the collector of the district, he shall do so by a precept, requiring the collector to investigate and decide the suit referred to him; and to report his decision within a limited period; or to assign reason, at the expiration of such period, why the suit has not been decided, and what further time is requisite for bringing the same to a summary determination.

In the event of considerable delay, the judge may recall suits from the collector.

Third. In the event of considerable delay in the decision of a suit so referred to a collector, it shall be competent to the judge to recall the same, and to try the suit himself, or refer it to his register.

The collectors are competent summarily to determine suits referred to them under the foregoing section.

III. It shall be competent to the collectors summarily to hear, investigate, and determine, any suits of the nature of those above specified, which may be referred to them by the judges of the *zillah* and city courts, under the provisions of the foregoing section.

The collector how to be guided in the decision of such suits.

IV. In the trial and decision of such suits, the collector shall be guided by the rules contained in this regulation, and upon points to which these may not be applicable by the rules

The collector invested with the same powers as the civil courts in issuing all process.

Except the execution of decrees.

rules prescribed for the guidance of the civil courts in the trial and decision of summary suits of the same description. The collector shall also possess the same powers as are vested in the civil courts for causing the attendance of parties and witnesses, and generally for all process which it may be necessary to issue in such suits, except the execution of decrees, respecting which the following rule is to be observed.

All decisions to be notified by the collector to the judge of the court by which the suit was referred.

The collector's award to be executed by the judge.

V. All decisions passed by the collectors under the provisions of this regulation, shall be notified as soon as practicable, under the collector's official seal and signature, to the judge of the court, by which the suit may have been referred; and the whole of the papers received, and proceedings held in the case, shall at the same time be transmitted to that court, with a final return to the precept by which it was referred. In cases in which a specific sum shall have been adjudged to be due, or any costs or any damages awarded, the collector's award shall be executed by the judge, under the usual process of the civil court, immediately on his receiving the collector's return as directed; and generally whatever may be ordered by the summary judgment of the collector, consistently with the regulations, shall be carried into execution by the ordinary process of the civil court.

The parties are competent to appoint any *vakeel* or representative they may think proper.

The remuneration of such *vakeel* to be adjusted between himself and constituent.

VI. It shall be competent to the parties in all suits, the cognizance of which is hereby vested in the collectors of revenue, to employ any agent, *vakeel*, or representative, whom they may think proper to appoint, to act and plead in their behalf, provided such agent, *vakeel*, or representative, be duly empowered by the parties. The rate of remuneration to such agent or *vakeel* shall be left to be adjusted between himself and his constituent; but no greater sum shall be awarded on this account for costs payable by the party against whom the judgment may be passed, than what may be deemed by the collector a fair equivalent for the attendance of such agent.

No other pleadings requisite than a plaint and answer.

VII. No other pleadings shall be required from the parties in such suits than a plaint and answer, provided that if the parties should, at any time, wish to file an amended plaint, or an amended answer, or any explanatory motion, such subsidiary pleadings shall be received.

Pleadings, &c. to be written on stampt paper of the value of eight annas.

No fees to be taken on the exhibits.

VIII. The *moktarnamahs* or *vakalutnamahs*, and the pleadings and final decree in such suits, shall be written on stampt paper of the value of eight annas, whatever may be the amount of the suit; and no fees shall be taken on exhibits tendered in the cause, or for the witnesses required by the parties; nor shall it be necessary for the parties to present a written motion on stampt paper for the filing of such exhibits, or for the summoning of such witnesses.

Collectors competent to determine such suits in any part of the district, provided the proceedings be held in public.

IX. It shall be competent to the collectors to hear and determine such suits in whatever part of the district they may occasionally be, or reside, provided that every hearing and decision be in public *cutcherree*, or in some other place open to the public, and in the presence of the parties, or of their constituted agents or *vakeels*, if in attendance.

A regular suit may notwithstanding be preferred in the *zillah* or city court.

X. Any person who may be dissatisfied with the summary judgment of a collector passed under this regulation, and may be desirous of a more full and formal investigation of the merits of the case, shall be at liberty to prefer a regular suit in the local *zillah* or city court, and on the institution of such suit the proceedings held on the summary inquiry shall be filed on the record of the regular suit.

A. D. 1825. REGULATION I.

A REGULATION *for declaring the judicial Officers, competent to superintend the Execution of their own Process in certain Cases, and for extending to Officers intrusted with the Execution of a Magistrate's Warrant, or other criminal Process, the Powers vested in Police Officers, by certain Provisions in Regulation* XX. 1817.—PASSED *by the Governor General in Council, on the* 13*th January* 1825; *corresponding with the* 2*d Maug* 1231 *Bengal era; the* 9*th Maug* 1232 *Fussily; the* 3*d Maug* 1232, *Willaity; the* 9*th Maug* 1881 *Sumbut; and the* 22*d Jummadi-ul-Awal* 1240 *Higeree.*

Preamble.

WHEREAS doubts have been entertained whether a judge, magistrate, or other European public officer, authorized to issue process of arrest, or other judicial process, is, under any circumstances, competent to attend in person, the execution of such process; as well as whether the officers charged with the execution of a warrant, bearing the seal and signature of a magistrate, in criminal cases, are competent to exercise the powers vested in officers of the police, charged with the execution of a warrant of arrest, issued by a police *darogah*, or other police officer, under the provisions of Section 25, Regulation XX. 1817; and it is desirable that all ground of doubt, as to the legal powers of the public officers, in such cases, should be removed by an express enactment, on the points referred to; the Governor General in Council has passed the following rules, to be in force, as soon as promulgated, throughout the provinces immediately subject to the presidency of Fort William.

Judicial European officers empowered to superintend in person the execution of their own process, and to adopt such legal measures on the occasion as may appear necessary.

II. Whenever the judge or register of a civil court, or a magistrate or joint magistrate, or any other European public officer, authorized by the regulations in force to issue process of arrest, or other judicial process, civil or criminal, upon the person or property of individuals, amenable to their respective jurisdictions, may, for any special reason, deem it necessary to be personally present at the execution of such process; and to see that the same be duly executed, in the manner prescribed by the regulations; it shall be competent to the public officer, who may have issued the process, to attend personally for the purpose above mentioned; and to adopt or direct any legal measures that may be necessary for the due execution thereof.

The powers vested by the existing regulations in police officers, for the service of process under the seal and signature of police *darogahs*, declared applicable to all officers intrusted with the execution of process in criminal cases, under the seal and signature of judicial European officers.

The punishment prescribed by clause seventh, Section 25, Regulation XX. 1817, in cases of abuse of official duty, declared applicable to all police officers, and others employed to execute a warrant or other process.

III. *First.* The powers vested in officers of police, by the fifth and sixth clauses of Section 25, Regulation XX. 1817, or by any other regulation in force, for the service and execution of warrants, or other process of arrest, in serious criminal cases, under the seal and signature of a police *darogah*, or other officer of the police, shall be held equally applicable to all officers intrusted with the execution of a warrant, or other process of arrest, in criminal cases, bearing the seal and signature of a magistrate, joint magistrate, or any public officer empowered to act as magistrate, whether the person to whom the warrant is addressed be an officer of the police, or otherwise.

Second. The seventh clause of the section above mentioned, whereby it is declared that any wilful abuse and perversion of the powers vested, by the preceding clauses, in the police officers for ends of public justice, will subject them, on conviction before the magistrate, or court of circuit, to exemplary punishment, according to the circumstances of the case, besides immediate dismission from office, is also hereby made applicable to all persons, whether police officers or others, who may be employed to execute a warrant, or other process of arrest, issued by a magistrate, joint magistrate, or other public officer empowered to act as magistrate; and may be guilty of any wilful abuse and perversion of the powers vested in them by the present regulation.

A. D.

A. D. 1825. REGULATION II.

A REGULATION *for amending the Rules in Force, relative to Applications for a Review of Judgment in regular original Suits and Appeals; and for restricting the Admission of special or second Appeals, by the provincal Courts, and Court of Sudder Dewanny Adawlut.*—PASSED *by the Governor General in Council, on the* 24*th March* 1825; *corresponding with the* 12*th Chyte* 1231 *Bengal era; the* 20*th Chyte* 1232 *Fussily; the* 13*th Chyte* 1232 *Willaity; the* 15*th Chyte* 188? *Sumbut; and the* 3*d Shabaan* 1240 *Higeree.*

Preamble.

WHEREAS the small expense attending petitions for a review of judgment, in regular original suits and appeals, decided by the *zillah*, city, and provincial courts, or by the court of Sudder Dewanny Adawlut, under the rules prescribed for such applications in Section 4, Regulation XXVI. 1814, has been found to encourage numerous petitions of this description, without sufficient grounds for preferring the same, to the serious hindrance of other business depending before the civil courts above mentioned: and whereas the extension given by the second clause of Section 2, Regulation IX. 1819, to the admission of special or second appeals, by the provincial courts and court of Sudder Dewanny Adawlut, has been productive of a large increase of such appeals; the numerous petitions for which, whether ultimately rejected or admitted, occupy more time than can be applied to them without impeding the trial and decision of other more important causes; whilst at the same time, such applications upon insufficient grounds, are encouraged by the indefinite terms of the clause adverted to; which authorize the admission of a second appeal "whenever there may appear strong probable ground, from whatever cause, to presume a failure of justice:" with a view therefore to provide against the continuance of these impediments to the general administration of civil justice in the superior courts, as well as to relieve individuals from the expense of fruitless applications in cases wherein there may be no certain and sufficient grounds for a further appeal in decided causes; the Governor General in Council, has passed the following amended rules, to be in force from the date of their promulgation throughout the provinces immediately subject to this presidency.

Such part of the second clause of Section 4, Regulation XXVI. 1814, as directs that petitions for a review of judgment shall be written on stampt paper of a prescribed value, declared applicable only to petitions presented within a specified period.

After which period they are to be written on the stampt paper, prescribed by Section 13, Regulation I. 1814, but in case the petitioner be a pauper, the provisions of Regulation XXVIII. 1814, are declared applicable.

II. *First.* Such part of the second clause of Section 4, Regulation XXVI. 1814, as provides that the petition for a review of judgment, in the cases therein mentioned, shall be written on stampt paper of the value prescribed in Section 18, Regulation I. 1814, shall after the promulgation of the present regulation be considered applicable only to petitions for a review of judgment, which may be presented, as required by the clause above noticed, within the period of three calender months from the delivery or tender of the decree. Whenever the petition for a review of judgment may be presented after that period, it shall be written upon the stampt paper prescribed in Section 13, Regulation I. 1814, with reference to the amount or value of the property adjudged against the party desiring the revision; in like manner as if a regular appeal were preferred from such judgment; unless the party desiring the review be a pauper, in which case the provisions relative to pauper appellants, contained in Regulation XXVIII. 1814, shall be held applicable.

Second. If the petition for a review of judgment, presented after the promulgation of this regulation, shall be rejected by the court receiving the same, as not containing sufficient

Petitioners whose petitions may be rejected, not entitled to receive back the amount of the prescribed stampt paper duty, but the courts empowered, in special cases, to order a refund of any portion not exceeding three-fourths of it.

cient grounds for the review desired, the petitioner shall not be entitled to receive back the amount of the stamp duty paid for the paper on which the petition may have been written; but in the event of its having been written on the stampt paper prescribed in Section 13, Regulation I. 1814, the court rejecting the petition, is vested with a discretionary authority (as in the case of special appeals, under the fifth clause of Section 2, Regulation XXVI. 1814) in any particular instance, wherein the forfeiture of the entire stamp duty may appear excessive, on due consideration of the circumstances of the case, to order the refund of any portion thereof, not exceeding three-fourths of the total amount, from the public treasury.

Courts empowered to impose a proportionate fine, in cases where petitions are found to be groundless or litigious.

Third. When the rejected petition may have been written on the stampt paper prescribed in Section 18, Regulation I. 1814, and shall be found, by the court rejecting it, groundless and litigious; so as to merit a fine, in addition to the small stamp duty paid in conformity with that section; the court is authorized and required (as in the case of litigious summary appeals, by the tenth clause of Section 3, Regulation XXVI. 1814) to impose such fine as may be proportionate to the circumstances of the case, and the condition of the party, not exceeding the amount of the stamp duty which would have been payable if the petition had been written on the stampt paper prescribed in Section 13, Regulation I. 1814.

Courts after reviewing the case of a petitioner, to pass such orders relative to the stamp duty paid by him as may appear just and equitable.

Fourth. When the petition for a review of judgment may be admitted, the court reviewing the case, will on deciding it pass such order relative to the stamp duty paid by the petitioner, as may appear just and proper; whether for his reimbursement by the opposite party as part of the costs of suit, or for the refund of any portion of it, not exceeding three-fourths, by Government.

Additional rules relative to the consideration of petitions for review of judgment in regular original suits and appeals.

III. In addition to the rules contained in Section 4, of Regulation XXVI. 1814, relative to petitions for a review of judgment in regular original suits and appeals, decided by the *zillah*, city, and provincial courts, or by the court of Sudder Dewanny Adawlut, it is hereby provided that whenever the judge or judges, who may have passed the decree, or if the decree have been passed by two or more judges, when any of such judges shall continue attached to the court, at the time when the petition for a review is received, and shall not be precluded, by absence or other cause, for a period of six months after the receipt of the petition, from considering and recording his order or opinion upon the same, it shall not be competent to any other judge or judges of the same court, to enter upon a consideration of the merits of the petition, and record an order or opinion thereupon, it being the obvious intention of the rules referred to, that application for a review of judgment made in pursuance thereof, should, as far as practicable, be received and disposed of by the judge or judges who may have passed the decision; subject to the regular course of appeal, if the case be appealable to a superior court. Provided however, that this restriction shall not be considered applicable to cases not open to a further appeal, in which a single judge, whether of a provincial court, or of the court of Sudder Dewanny Adawlut, may appear on the face of the decree to have exceeded the powers vested in him by the regulations. In such cases the decree being imperfect and irregular, it shall be competent to a majority of the judges of the provincial court, or of the court of Sudder Dewanny Adawlut, concurring in opinion as to such irregularity, to proceed upon the petition for a review, in the manner prescribed by Section 4, Regulation XXVI. 1814, and by the present regulation.

Such petitions in all practicable cases, to be received and disposed of by the judge who passed the decision, subject to the regular course of appeal.

Whose restriction however, declared inapplicable to cases where the judge in passing a decision, may have exceeded the powers vested in him.

Rule of proceeding to be observed by the judges in correcting such irregularities.

Clause second, Section 2, Regulation IX. 1819, rescinded.

IV. *First.* The second clause of Section 2, Regulation IX. 1819, whereby the rules before in force for the admission of special or second appeals by the provincial courts and court of Sudder Dewanny Adawlut, were extended, is hereby rescinded.

By what rules the Sudder Dewanny Adawlut and provincial courts are hereafter to be guided in admitting second or special appeals.

Second. After the promulgation of this regulation the provincial courts, and court of Sudder Dewanny Adawlut shall be guided, in their admission of special or second appeals, by the rules contained in Section 2, Regulation XXVI. 1814; Section 7, Regulation XIX. 1817; and Sections 3, 4, and 5, of Regulation IX. 1819.

The provisions of Regulation XXVIII. 1814, extended to the admission of such second or special appeals *in formâ pauperis* as may be hereafter deemed admissible under the rules in force

V. Regulation XXVIII. 1814, relative to paupers, not containing any specific provision respecting pauper appellants or respondents in second or special appeals, it is hereby declared, that the provisions in that regulation respecting appeals *in formâ pauperis* from decisions passed in original suits, shall after the promulgation of the present regulation, be considered applicable to any second or special appeals which may be preferred *in formâ pauperis*; and which may be hereafter deemed admissible under the rules specified in the preceding section.

A. D. 1825. REGULATION VII.

A REGULATION *to explain and amend the Rules in Force for the Execution of Decrees, or other judicial Process, by the Sale of landed Property, or otherwise.*—PASSED *by the Governor General in Council, on the* 14*th April* 1825; *corresponding with the* 3*d Bysaak* 1232 *Bengal era; the* 10*th Bysaak* 1232 *Fussily; the* 3*d Bysaak* 1232 *Willaity; the* 11*th Bysaak* 1882 *Sumbut; and the* 23*d Shabaan* 1240 *Higeree.*

Preamble.

WHEREAS the rules contained in Regulation XLV. 1793, re-enacted for Benares by Regulation XX. 1795, and for the ceded provinces by Regulation XXVI. 1803, "for disposing of *malguzaree* and *lakheraj* lands, pursuant to decrees of the courts of justice," have been found to require explanation and amendment, with respect to the sale of houses, gardens, orchards, and small portions of land held exempt from the public assessment: and whereas it appears expedient to establish some additional rules for the sale of such property, when requisite, in satisfaction of decrees, or judicial process; as well as for the sale of landed property, in execution of such process, when made by the revenue officers of Government; at the same time enabling the judges of the civil courts to obtain the aid of the collectors in the enforcement of all decrees relative to the proprietary right, or possession, of lands, when it may appear conducive to their speedy or complete execution, as well as to require security, or direct an attachment of property in certain cases, when the enforcement of a decree may be delayed under the eighth clause of Section 15, Regulation XXVI. 1814; the Governor General in Council has for these purposes enacted the following rules, to be in force, as soon as promulgated, throughout all the provinces immediately subject to the presidency of Fort William.

Parts of the regulations in force relating to sale of lands, in satisfaction of decrees of courts, explained and modified.

II. *First.* Such parts of Regulations XLV. 1793, XX. 1795, and XXVI. 1803, or of any other regulation in force, relative to the sale of lands, in satisfaction of decrees of the courts of civil judicature, as require that sales of landed property, in execution of such decrees, shall be made by the collectors of the public revenue, or other officers of Government in the revenue department, are hereby explained and modified, as follows.

Sales of houses, gardens, orchards, and small portions of *lakheraj* land, in execution of decrees, to be conducted under the authority of the judicial officers.

Second. The rules contained in the regulations above-mentioned shall not be considered applicable to the sale of houses, gardens, orchards, and small portions of land held exempt from the public assessment; the sale of which, when requisite in execution of any decree or other judicial process, shall be made, as heretofore, by order of the court, or officer, empowered to enforce the decree or process, without application to the Board of Revenue, or the collector of the district, or other officer in the revenue department.

The sale of landed property, under a judicial process, to be conducted under the same forms as sales of personal property.

Third. The judge, register, or other officer empowered, under the regulations, to enforce a decree or other judicial process, by a sale of property, is authorized to cause the public sale of any house, garden, orchard, or small portion of *lakheraj* land, which may be liable to be sold in execution of the decree or other process, in like manner as he is authorized to cause the public sale of any personal property liable to be sold in execution of the same.

The same officers to be employed in the sale of houses, &c. as in the sale of landed property.

III. *First.* The judges and registers of the *zillah* and city courts, who usually employ the *nazirs* of those courts, or the *sudder ameens* at the station of the judge and register, and the local *moonsiffs* in other parts of their jurisdictions, to conduct the public sale of personal property, in execution of decrees or other judicial process, are hereby authorized

to employ the same officers, when it may appear expedient, in the public sale of houses. gardens, orchards, or small portions of *lakheraj* land, under the provisions of this regulation.

A proclamation to be issued thirty days previously to the sale of such property.

Second. In all cases of attachment and intended sale, whether of personal property, or of the landed property above described, in execution of any decree or other judicial process, a proclamation of the intended sale, with particulars of the time and place of sale, of the property to be sold, and of the amount due for the recovery of which the sale is ordered, shall be made, in the current language of the country, for at least thirty days before the appointed day of sale; exclusive of the day of sale and the date on which the proclamation may be ordered.

How such proclamation is to be made and notified.

Such proclamation shall be made in the usual mode, by beat of drum, on the spot where the property is attached; and a written notification to the same effect shall also be affixed in some conspicuous place within the village or town, in which the attachment may take place, as well as in the *cutcherree* of the local *moonsiff*; and at the *cucherrees* of the collector of the district, and the *zillah* judge, or register, who may have ordered the sale. When the sale is to be made by a *sudder ameen*, the notification shall also be affixed in the *cutcherree* of such *sudder ameen*.

The usual processes for attachment and sale, may be issued simultaneously.

Third. The usual processes for attachment and sale, in such cases, may either be issued successively or simultaneously, as the judge, register, or other judicial officer directing the sale, may in each instance think proper, with reference to the circumstances of the case.

No sale to take place, without the specified proclamation being made; and any material irregularity will render the sale liable to be declared invalid,

But no sale shall in any instance take place, without a previous proclamation for the period specified in the preceding clause; and any material irregularity in the sale, which may be established, on a summary inquiry, to the satisfaction of the judge, register, or other officer by whom the sale may have been ordered, shall be sufficient to invalidate the sale; provided that a petition, written on the stampt paper required for miscellaneous petitions to the *zillah* and city courts, and stating circumstantially the irregularity which may have taken place,

If a petition on stampt paper be presented within one month after the sale.

be presented to the judge, register, or other officer by whom the sale may have been ordered, within one month after the sale.

In cases where sales are annulled and no collusion appears, the purchaser to have his purchase money returned, with or without interest, as may appear proper.

Fourth. Whenever a public sale may be set aside as invalid, under the preceding clause, or on any account whatever, and no collusion or fraud shall appear on the part of the purchaser, he shall be entitled to receive back his purchase money, on restoring any property delivered over to him, with or without interest, in such manner as it may appear proper to direct in each instance.

Summary decision passed by judges or registers appealable to the provincial courts.

Fifth. The summary decision passed by the *zillah* or city judges, or registers, under this section, shall be open to a summary appeal to the provincial courts, under the general rules for such appeals.

How judicial officers are to proceed, in cases where claims are made to advertised property, or objections made to the sale of it.

Sixth. In the event of any claim being preferred to the property advertised for sale, under the provisions of this section; or of any objection being offered to the proposed sale, within the period of the proclamation; such claim or objection shall be inquired into by the judge, register, or other officer who may have ordered the sale, or may be referred for inquiry and report to a *sudder ameen*, or local *moonsiff*; and if it appear necessary, the time of sale shall be postponed, till such claim or objection have been investigated; provided

Provided such claim or objection shall not have been designedly delayed.

But should the claim be urged with a fraudulent design, the sale is to proceed, and the claimant left to prosecute in the civil court.

that the representation of it, (which in all instances, is required to be preferred to the judge, register, or officer ordering the sale, as soon as practicable after the publication of the intended sale,) shall not appear to have been designedly and unnecessarily delayed, with a view to obstruct the ends of justice. In such cases, when the fraudulent design may appear evident, the sale shall not be postponed; and the claimant shall be left to prosecute his claim, after the sale, by a regular civil suit.

In all cases of sale of property, the bidders shall be apprised that nothing is guaranteed to them beyond the rights and interests of the individuals answerable for the amount of the decree.

Seventh. In all cases of a public sale of property, under this regulation, it shall be clearly explained to the bidders at the sale, that nothing is guaranteed to them in the land, or other property sold, beyond the rights and interests therein of the individuals answerable for the amount of the decree or other process, in execution of which the sale is made.

The provision contained in the foregoing clause declared applicable to all public sales of land made

IV. *First.* The provision contained in the last clause of the foregoing section, shall be considered applicable to all public sales of land made by the collectors, or other officers of Government in the revenue department, in execution of decrees of the courts of judicial process; and the following additional rules are prescribed respecting such sales, in modification of those now in force.

Second. When it may be necessary to have recourse to a sale of landed property, in execution of a decree or other judicial process, and the property pointed out for sale, by the person desiring execution of the decree or other process, may not be such as the court empowered to enforce the same is authorized to bring to sale, without application to the revenue officers of Government, the court whose duty it may be to execute the decree or process, shall transmit a copy and translation of the decree or other process, to the local Board of Revenue, as directed in Regulations XLV. 1793, XX. 1795, and XXVI. 1803, and shall at the same time transmit a statement of the lands which the person entitled to the benefit of the decree or other process, may point out as belonging to the person or persons, from whom the amount may be demandable.

by collectors or other revenue officers, in execution of decrees of the courts of judicature or of other judicial process.

The courts how to proceed, when a sale of landed property cannot be effected without application to the revenue authorities.

Third. The Board of Revenue, on receipt of the documents above noticed, will proceed as directed in the regulations referred to, and shall furnish the collector of the district in which the lands proposed for sale may be situated, with a copy of the statement so received; instructing him to select for the sale, any part of the lands included in the statement, which it may appear most convenient to sell in execution of the decree or other process, and the sale of which may appear sufficient for that purpose.

The Board of Revenue to instruct the collector of the district in which the lands may be situated to select for sale any part of them which may appear most convenient.

Fourth. In the event of any claim being preferred or objection offered to the collector, against the sale of the lands proposed to be sold, as not belonging to the person or persons answerable for the amount of the decree, or other process to be enforced, and consequently not liable to be sold in execution thereof, the collector shall communicate such claim or objection, with any information which his official records may enable him to furnish on the subject, to the court which may have applied for the sale; and shall be guided by the instructions which he may receive in answer, whether to proceed with the sale, or otherwise.

In the event of any claim or objection against the sale, the collector shall communicate the same to the court, and shall be guided by the instructions he may receive.

Fifth. In all cases of a claim or objection being communicated by a collector, to the court enforcing a decree or other process, under the foregoing clause, or of a claim to lands proposed for sale in execution of judicial process, being received from the claimant, by the judge, or other officer who may have required the sale, it shall be his duty to enter upon an immediate, summary inquiry into the truth and foundation of such claim; and if it appear proper, he shall instruct the collector to postpone the intended sale until such inquiry shall have been completed. Provided however, that such postponement shall not be necessary, when the claim or objection may not have been preferred within a reasonable time, after the collector's publication of the intended sale, and may appear to have been intentionally delayed, with a view to obstruct the sale. In such cases the court may order the sale to take place; and refer the claimant to a regular suit in prosecution of his claim.

In cases where objections are communicated by collectors, or claims preferred to lands ordered for sale, the judge, &c. to institute a summary inquiry, and if requisite to instruct the collector to postpone the sale.

Such postponement to be held unnecessary, if the claim has not been preferred within a reasonable period.

V. *First.* A doubt having been entertained whether public sales of land, made by the revenue officers of Government, in satisfaction of decrees or other process of the court of judicature, can be summarily set aside, without a regular civil suit, or proof of irregularity in publishing and conducting the sale, or otherwise; it is hereby declared that the *zillah* or city court, or other judicial authority, who may have ordered the sale in such cases, shall be competent to declare the same null and void, and to order a re-sale in the mode prescribed by the regulations, if, on summary inquiry, any material deviation therefrom, and consequent irregularity in the sale, be satisfactorily established: provided that a petition containing a circumstantial statement of such irregularity, and written on the stampt paper required for miscellaneous petitions in the *zillah* and city courts, be presented to the court by which the sale may have been ordered, within a month after the sale. In such cases, the court directing the sale to be set aside shall further be competent to direct a return of the purchase money, with or without interest, as provided for in similar cases by the fourth clause of Section 3. of this regulation.

All judicial authorities who may have ordered sales of lands by revenue officers, empowered to declare such sales null and void, and to order a re-sale, if, on summary inquiry, any material irregularity be satisfactorily established.

Proviso.

In certain cases the purchase money to be returned with or without interest.

Second. The summary decisions passed under this section, shall be open to a summary appeal to the provincial courts, under the general rules for such appeals.

Summary decisions passed under this section appealable to the provincial courts.

VI. By the existing regulations the judges of the *zillah* and city courts, are required to transmit to the collectors of their respective jurisdictions, (as well as to the Board of Revenue,) copies of all decrees which may be passed by them, or by their registers; or which may be sent to them for enforcement by the superior courts; affecting the proprietary

The civil courts may require the aid of the collectors in the enforcement of decrees relating

to *malgusaree* land, whenever it may appear conducive to their speedy and complete execution.

tary right to, or possession of, any lands paying revenue to Government, or held exempt from the payment of revenue; for the purpose of enabling them to make the requisite entries and alterations in the periodical registers of land. The judges of the several civil courts are further hereby authorized to require the aid of the local collector, in the enforcement of all such decrees, whenever it may appear conducive to their speedy and complete execution; whether by giving possession to the parties entitled thereto, or by the adjustment of a *waselat* account, or otherwise.

Clause eighth, Section 15, Regulation XXVI. 1814, explained, and the several courts empowered to require security for making good decrees, or in failure thereof to cause an attachment of property.

VII. In explanation of the eighth clause of Section 15, Regulation XXVI. 1814, which provides that, in certain cases, "it shall be competent to the court applied to for execution of a decree, instead of proceeding to the immediate enforcement of the decree, to issue a notice to the party against whom execution may be sued out, requiring him to show cause within a limited period to be fixed by the court, why the decree should not be executed against him;" it is hereby declared that the above provision was meant to be imperative in the cases referred to, and not to leave a discretion with the court; at the same time, with a view to guard against abuses, it is now further provided, that whenever it may be shown, by satisfactory evidence, that the party against whom the decree was passed, or in the event of his decease, his legal representative who may have become answerable for the fulfilment of it, is about to remove, or dispose of the property from which the judgment should be satisfied, the court, proceeding as directed in the eighth clause of Section 15, Regulation XXVI. 1814, shall be authorized to require security in such amount as may appear sufficient for making good the decree; and in the event of such security not being given, to cause an attachment of property, as provided for in similar cases, whilst a suit is depending, by Section 5, Regulation II. 1806.

A. D. 1826. REGULATION III.

A REGULATION *for extending to Dewanny Prisoners, some of the Provisions in Regulation XIV.* 1816; *and for modifying the Rule contained in Section* 3, *Regulation IV.*1816.—PASSED *by the Governor General in Council, on the* 11*th May* 1826; *corresponding with the*30*th Bysaak* 1233 *Bengal era; the* 19*th Bysaak* 1233 *Fussily; the* 31*st Bysaak* 1233 *Willaity; the* 4*th Bysaak* 1883 *Sumbut; and the* 3*d Ramzaan* 1241 *Higeree.*

Preamble.

WHEREAS the rules contained in Regulation XIV. 1816, apply only to the criminal jails: and whereas it is expedient to extend them in part to prisoners confined in the civil jails under process of the civil courts: and whereas the occasional separation of the offices of judge and magistrate, makes it necessary to modify the rule contained in Section 3, Regulation IV. 1816; the following rules are therefore enacted, to be in force, from the time of their promulgation, in all the provinces immediately subject to the presidency of Fort William.

Section 3, Regulation IV. 1816, modified.

II. In modification of Section 3, Regulation IV. 1816, the control of the civil jail of each *zillah* and city jurisdiction is hereby vested in the magistrate of such district or city, and the magistrate shall henceforth perform the duties described in the section above cited.

Magistrate vested with power of summary inquiry and punishment.

III. The magistrate is hereby vested with authority to punish, on a summary inquiry, the offences specified in the following section of this regulation.

Detail of offences.

IV. *First.* Refractory behaviour by any prisoner confined under process of the civil court, such as resistance to the jailer, guards, or other public officers, in the regular discharge of their public functions; abusive language to any such officers, and generally any culpable behaviour towards them, which may not involve a serious act of criminality, such as cannot be duly punished by the magistrate, and should therefore be brought before the court of circuit.

Second. Any other instance of disorderly conduct by a prisoner, such as riot, insurrection, attempt to escape, conspiring with other prisoners with a view to escape, or for the purpose of insurrection, or for any other unlawful or prohibited purpose, abusing or assaulting another prisoner, and generally, any misconduct committed by a prisoner whilst in custody, which, under the regulations in force, or from its aggravated nature, may not exceed the competency of the magistrate, and therefore be more properly cognizable by the court of circuit.

Extent and mode of punishment.

V. *First.* The powers vested in the magistrate for the punishment of the offences specified in the preceding section, which on a summary inquiry may appear to have been committed by any of the prisoners confined under civil process, are declared to be as follows, due regard being had to the nature of the offence, the condition of the prisoner, and every other just consideration applicable to the case.

Second. The offences specified in the preceding section shall be punishable by close confinement, or by a reduction of the prisoner's allowance, for any term not exceeding two months;

months; the allowance to be in no case reduced below what may be consistent with the prisoner's support, and the difference between the prisoner's full allowance and the reduced rate to be carried to the credit of Government as a fine.

Record of inquiry and sentence, and rule for the inspection thereof.

Third. The rule for conducting such summary inquiries, and recording such sentences, and for their inspection by the judge of circuit, shall be the same with that prescribed with regard to prisoners confined in the criminal jails, by Section 8, Regulation XIV. 1816.

Proviso.

VI. Provided, however, that nothing in this regulation shall be construed to give the magistrate any jurisdiction whatever over the question of a civil prisoner's liability to confinement, or title to release, with reference to the civil process under which he may have been sent to jail, or to preclude the judge of the civil court, or his ministerial officers, European or native, authorized and deputed by him, from visiting the civil jail, or the judge from summoning any civil prisoner to his court, upon matters connected with the civil process under which he is confined, or for other judicial purpose.

A. D. 1827. REGULATION V.

A REGULATION *for modifying the Rules at Present in Force for the Management of Estates under Attachment by Orders of the Courts of Justice in certain Cases.*—PASSED *by the Governor General in Council, on the 27th December* 1827; *corresponding with the* 13*th Poose* 1234 *Bengal era; the* 24*th Poose* 1235 *Fussily; the* 14*th Poose* 1235 *Willaity; the* 10*th Poose* 1884 *Sumbut; and the* 7*th Jummadee-us Sanee* 1243 *Higeree.*

Preamble.

WHEREAS it is expedient, in all cases of the attachment of landed property under orders of the courts of justice, that the management of the estate attached should be placed under the superintendence of the collectors of land revenue; the following rules have been enacted by the Governor General in Council, to be in force, from the date of their promulgation, throughout the territories immediately subject to the presidency of Fort William.

Modification of certain regulations regarding the management of estates under attachment.

II. The rules contained in Sections 5. and 6, Regulation V. 1799, and clauses fifth and sixth, Section 16, Regulation III. 1803, and Sections 26. and 27, Regulation V. 1812, and clause third, Section 5, Regulation VI. 1813, regarding the administration and management of estates under orders of the *zillah* and city courts, are hereby declared subject to the following modifications.

Rules for the issue of precept for holding estates under attachment, and for appointing managers.

III. Whenever the *zillah* and city courts may deem it just and proper, under the provisions of the several regulations above-mentioned, to provide for the administration or management of landed property, the court shall issue a precept to the collector of land revenue of the district wherein the estate may be situated, directing him to hold the estate in attachment, and to appoint a person for the due care and management of the estate, under good and adequate security for the faithful discharge of the trust, in a sum proportionate to the extent thereof: provided however, that if any person holding an interest in the estate, shall be dissatisfied with the selection made by the collector of the individual to perform the duty in question, or with the conduct of the manager at any time after his appointment, it shall be competent to such person to represent his objections to the Board of Revenue, and the Board will either confirm the manager chosen, or order the collector to appoint another person, as, on consideration of the circumstances of the case, may appear reasonable and proper.

The precept shall specifically state the property to be included in the attachment.

IV. The precept of the *zillah* or city court above-mentioned shall state specifically the property to be included in the attachment, and the attachment shall not be withdrawn without a further precept from the court to that effect.

A. D. 1828. REGULATION V.

A REGULATION *for authorizing the Zillah and City Courts to execute Awards of Military Courts in certain Cases.*—PASSED *by the Governor General in Council, on the* 28*th August* 1828; *corresponding with the* 14*th Bhadoon* 1235 *Bengal era; the* 3*d Bhadoon* 1235 *Fussily; the* 15*th Bhadoon* 1235 *Willaity; the* 4*th Bhadoon* 1885 *Sumbut, and the* 16*th Suffer* 1244 *Higeree.*

Preamble.

WHEREAS the rules for the execution of awards of military courts, acting under the provisions of Section 22, Regulation XX. 1810, have, in some instances, been found defective; the following rules have been enacted, to be in force from the period of their promulgation.

Judges of *zillah* and city courts to give effect to awards of military courts in certain cases.

II. Whenever an award of a military court, acting under the provisions of Section 22, Regulation XX. 1810, against a defendant being a native of the description mentioned in the said section, shall decree a sum beyond the extent of the property which such defendant may be found to possess within the reach of military authority, but not exceeding two hundred rupees, it shall be competent to the judge of any *zillah* or city to give effect to such award, by levying the amount, or a portion of it, from any of the defendant's property which may be pointed out within the jurisdiction of the said *zillah* or city, on being furnished with a copy of the award, and a certificate from the commanding officer of the district, of the extent of the amount unrealized; and the *zillah* or city judge to whom such application shall be made, within the period of three months from the date of the award, is hereby authorized and directed to proceed to execute the same, in the mode prescribed by the existing regulations for the sale of property, in the execution of decrees when passed by a *zillah* or city court.

A. D. 1793. REGULATION XL*.

A REGULATION *for granting Commissions to Natives, to hear and decide civil Suits for Sums of Money, or personal Property of a Value not exceeding fifty sicca Rupees, and prescribing Rules for the Trial of the Suits, and enforcing the Decisions which may be passed upon them.*—PASSED *by the Governor General in Council, on the* 1st *May* 1793; *corresponding with the* 21st *Bysauk* 1200 *Bengal era; the* 6th *Bysauk* 1200 *Fussily; the* 21st *Bysauk* 1200 *Willaity; the* 6th *Bysauk* 1850 *Sumbut; and the* 19th *Ramzaan* 1207 *Higeree.*

Preamble.

THERE *being but one established tribunal in each* zillah *for the trial of causes, the parties in the most trivial suits, wherever they may reside, are often obliged to repair in person to the place at which the court is held, and to attend on it until the suit is decided. Besides the expence and inconvenience necessarily resulting to the parties themselves from quitting their employments, and proceeding to a distance from their habitations, greater hardship is experienced by their witnesses, who, notwithstanding they may be uninterested in the issue of the suit, are obliged, excepting in particular cases, to attend the court in person, to the great detriment of their private affairs. In addition to these evils, the numerous petty suits filed both in the city and* zillah *courts, occupy the greater portion of the time of the judges, protract the decision of causes of more importance, and obstruct the general administration of justice. To relieve the courts, as far as may be practicable, from the trial of these petty suits; to afford the parties an opportunity of obtaining an adjustment of them, without subjecting themselves or their witnesses to the injurious consequences above stated, and to expedite the decision of causes of every description, the following rules have been enacted.*

Commissions to be granted to Mahomedans and Hindoos to determine suits for money or personal property not exceeding fifty sicca rupees.

II. Commissions shall be granted to Mahomedans and Hindoos in the cities of Patna, Dacca, and Moorshedabad, and in the several zillahs, *to try and determine suits for sums of money, or personal property, not exceeding in amount or value fifty sicca rupees.*

Commissioners to be nominated by the judges, and approved by the Sudder Dewanny Adawlut.

III. First. *The commissioners are to be nominated by the judges of the* zillahs *and cities, and approved by the Sudder Dewanny Adawlut; but no person shall be allowed to act as commissioner, until the previous sanction of that court to his nomination shall have been obtained.*

Commissioners to receive sunnuds *under the seal and signature of the judge.*

Second. *The commissioners shall receive* sunnuds *of appointment under the seal and signature of the judge of the* zillah *or city court under which they may act.*

Commissioners not to be removed without sufficient cause proved to the satisfaction of the Sudder Dewanny Adawlut.

Third. *No commissioner shall be removed from his office during the period for which his commission may be declared to be in force, without sufficient cause proved to the satisfaction of the Sudder Dewanny Adawlut.*

Rules for the appointment of the city commissioners, the duration of their commissions and their powers.

IV. First. *The following rules are prescribed regarding the appointment of the commissioners in the cities of Patna, Dacca, and Moorshedabad, the duration of their commissions, and their powers.*

* This regulation is rescinded by Section 2, Regulation XXIII. 1814.

Cauzies of the three cities to be nominated commissioners.

Second. *The* cauzy *of each of the three cities of Patna, Dacca, and Moorshedabad, shall be nominated a commissioner in virtue of his office, and shall attend at the* cutcherree *or court-house, for the trial and decision of suits, three days in each week, or as often as the judge may direct.*

Judges to nominate persons of character and ability to officiate as commissioners.

Third. *The judges of the three cities, are likewise to nominate a number of persons of acknowledged character and ability, who may be willing to undertake the trust, to officiate as commissioners in their respective jurisdictions. The number of commissioners of this description in each city shall be such, that the judge may not have occasion to refer to them respectively, more causes than they may be able to determine with promptness, and without occupying a greater portion of their time than their own affairs will admit of their appropriating to the discharge of their trust.*

Causes may be referred to two or more commissioners jointly, but in general to be referred to a single commissioner.

Fourth. *The judges are to make it a general rule to refer causes to the commissioners singly, but in cases in which for special reasons it may appear to them advisable, they are empowered to refer causes to two or more commissioners jointly.*

When the commissions of the city commissioners are to expire.

Fifth. *The commissions of the* cauzies *are to remain in force whilst they hold their offices, and those of the other city commissioners, whilst their general residence may be within the limits of the city jurisdiction, and no longer.*

City commissioners to act in the two capacities of referees and arbitrators.

Sixth. *The commissioners in the three cities, are to act in the following capacities: firstly, referees (*ameens*), in which capacity they shall hear and determine such suits as may be referred to them by the* dewanny adawlut; *secondly, arbitrator* (salisân), *in which capacity they are to hear and determine such suits, as persons whether residing within or without the limits of the city, may voluntarily submit to their decision by arbitration bonds.*

Rules respecting the appointment of the zillah *commissioners, the duration of their commissions, and their powers.*

V. First. *The following rules are prescribed respecting the appointment of the commissioners in the* zillahs, *the duration of their commissions, and their powers.*

Rule for determining the number of the zillah *commissioners.*

Second. *The number of commissioners to be selected in each* zillah, *where local circumstances will admit, shall be such, that the court may not be under the necessity of obliging a defendant, wherever he may reside, to proceed a greater distance than five* coss *to answer any suit that may be preferred against him.*

From what descriptions of persons the commissioners shall be selected.

Proprietors of land.

Farmers.

Tehsildars *and* sezawuls.

Managers of the estates of disqualified landholders.

Under-farmers.

Third. *The commissioners shall be selected from amongst the following descriptions of persons, and the judges are enjoined to nominate those who may be best qualified for the trust by their character and abilities.* Firstly, *The principal proprietors of land who have the management of their own estates.* Secondly, *Farmers of land holding farms immediately of Government.* Thirdly, Tehsildars *or* sezawuls *collecting the revenues from lands held* khas, *or small estates whether let in farm or held* khas. Fourthly, *Managers appointed by the court of wards to the care of estates belonging to disqualified proprietors.* Fifthly, *Under-farmers, or officers of credit and responsibility entrusted with the collection of the rents and revenues in estates (whether the public revenue assessed thereon be collected and paid to Government by the proprietor, or by a farmer, or by a manager on the part of the court of wards, or a* tehsildar, *or* sezawul*) which may be considered too extensive for the proprietor, farmer, manager,* tehsildar, *or* sezawul, *to determine with promptness all the suits that might come before him.* Sixthly, *Creditable merchants, traders, and shopkeepers, or other persons of property and acknowledged character, residing in towns,* bazars, hauts, gunges, *or* aurungs, *of sufficient extent to require the appointment of a separate commissioner therein for the determination of suits. Seventhly,* Altumgahdars *and* jaghiredars, *possessing extensive* altumgahs *or* jaghires, *or the persons appointed by them to manage their* altumgahs *or* jaghires. *Eighthly, The* cauzy *of Calcutta, shall be commissioner for the* zillah *of the Twenty-four Pergunnahs in virtue of his office, and the* cauzy *of the town or place in which each of the other* zillah *courts is established, shall also be a commissioner for the* zillah *in virtue of his office. These* cauzies *respectively are to decide the suits that may be referred to them, at the* cutcherree *or court-house of the judge, where they are to attend for that purpose as often as he may deem it necessary. If any of these* cauzies *shall be deemed by the judges unqualified in any respect for the duties prescribed to them, they are to inform the Sudder Dewanny Adawlut, and recommend competent persons to succeed to their offices. Ninthly,* Mofussil cauzies.

Creditable merchants, &c. in the principal towns, bazars, &c.

Altumgahdars, *and* jaghiredars.

Cauzy *of Calcutta to be commissioner for the* zillah *of the Twenty-four Pergunnahs, in virtue of his office.*

Cauzies *of the places at which the other* zillah *courts are established, to be commissioners in virtue of their offices.*

Cauzies who are unqualified for the trust, to be removed, and fit persons appointed in their room.

Mofussil cauzies.

Rules respecting the duration of the commissions of the zillah commissioners.

Fourth. *The commissions of proprietors of land are to be in force no longer than they may have the management, and are responsible to Government for the public revenue assessed on their respective estates. The commissions of farmers of land holding farms immediately of Government,* tehsildars, sezawuls, *managers, under-farmers, or revenue officers in large estates, are to expire with the leases of the farms or the offices in virtue of which they may receive their commissions. The commissions of the commissioners in the large towns,* bazars, gunges, hauts, *or* aurungs, *shall remain in force whilst their general residence may be within the limits of such place, and no longer. The commissions of* altumgahdars *and* jaghiredars *shall cease on the resumption of their* altumgahs *or* jaghires, *and those of the managers, of their* altumgahs *and* jaghires, *on their removal from their employment. The commissions of the* cauzy *of Calcutta for the Twenty-four Pergunnahs, and those of the* cauzies *at the stations where the other* zillah *courts are established, and the* mofussil cauzies, *are to remain in force whilst they hold their respective offices, and no longer.*

Sudder Dewanny Adawlut may dispense with the rules in the preceding clause.

Fifth. *The Sudder Dewanny Adawlut however may, for special reasons, dispense with the rules contained in the preceding clause regarding the duration of commissions, in any cases in which it may appear to them advisable.*

Zillah commissioners of the description herein mentioned to act in the distinct capacities of referees, arbitrators, and munsiffs.

Sixth. *Commissioners being proprietors of land, farmers of land holding farms immediately of Government,* tehsildars, sezawuls, *managers, under-farmers, officers of credit and responsibility, or* altumgahdars *and* jaghiredars, *shall act in the two first of the three following capacities; and any of the commissioners above described in this clause, in whose abilities and character the judges and the Sudder Dewanny Adawlut shall repose special confidence, may be empowered to act also in the third capacity.* First, *referees* (ameens), *in which capacity they are to hear and determine such suits as may be referred to them by the* dewanny adawlut. Secondly, *arbitrators* (salisân), *in which capacity they are to hear and determine such suits as persons wherever residing may voluntarily submit to their decision by arbitration bonds.* Thirdly, munsiffs, *in which capacity they are empowered to receive, try, and determine, of their own authority, without any order from the* adawlut, *or application thereto by the plaintiff, such suits as may be preferred to them against persons being under-renters or* ryots, *in the estate, farm,* mohaul, jaghire, *or* altumgah, *in virtue of which they may be vested with the office of commissioner. But the terms under-renters and* ryots, *are to be considered to extend only to such persons as are* bonâ fide *under-renters and* ryots, *or cultivators of land by profession, and are not to be construed to include merchants, traders, and shop-keepers, or other persons, residing in the towns and villages, who only rent or hold on* pottah, *land attached to their dwelling houses, or for gardens. The Sudder Dewanny Adawlut, however, are empowered to extend the jurisdiction of a* munsiff *to any circumjacent estates or farms, in cases in which it may appear to them advisable.*

Other commissioners to act as referees and arbitrators only. Exception.

Seventh. *The* cauzy *of Calcutta, the* cauzies *at the stations at which the other* zillah *courts are established,* mofussil cauzies, *and the commissioners in the large towns,* bazars, gunges, hauts, *or* aurungs, *are to exercise the functions of referees and arbitrators only. The Sudder Dewanny Adawlut may however, in instances in which they may deem it advisable, empower such* cauzies *and commissioners to act as* munsiffs *also, specifying in their commission the limits of their jurisdiction, and the descriptions of persons over whom their authority is to extend.*

Form of the commissions to be granted to the commissioners.

VI. The judges of the zillahs *and cities, are to grant commissions* (sunnuds) *under their seals and signatures to the persons who may be appointed commissioners, in the following form.*

"*I A. B. judge of the* dewanny adawlut *of the* zillah *(or city) of*————, *in virtue of the powers vested in me by Regulation XL.* 1793, *appoint you* ———— *commissioner, with the powers of referee* (ameen) *and arbitrator* (salis), *and (if the commissioner be appointed* munsiff *also)* munsiff, *for trying and deciding suits for sums of money or personal property, not exceeding fifty sicca rupees, which may be referred to you by the court in your capacity of referee* (ameen), *or that may be submitted to you by the parties by arbitration bonds in your capacity of arbitrator* (salis), *or (if the commissioner be a* munsiff *also) that may be preferred to you in the first instance in your capacity of* munsiff

against any individual coming within the description of the persons subject to your jurisdiction as described in clause sixth, Section 5, of the abovementioned regulation, and residing in your estate, farm, jaghire, altumgah, *or other lands, the rents and revenues of which are collected by you. You are to fix up this commission in the room or place in which you may try and decide the suits that may come before you, in either of the capacities above mentioned; and are not on any account to try or decide any suit without so fixing up this commission, or a counterpart or copy of it, under the seal and signature of the judge of the* zillah *or city. You are to try and decide all such suits, and to exercise the authority vested in you agreeably to the rules prescribed in Regulation XL.* 1793, *or such other regulations as may be hereafter passed by the Governor General in Council, and printed and published as prescribed in Regulation XLI.* 1793. *You are to exercise the powers of commissioner herein vested in you, (if the commissioner be a* cauzy,*) so long only as you may hold the office of* cauzy *of* ————, *or, (if the commissioner be a proprietor of land,) so long only as you may be the proprietor of the estate of* ————, *and pay the revenue assessed thereon to Government, or, (if the commissioner be a farmer of land holding a farm immediately of Government,) so long only as you may hold the farm of* ————, *or, (if the commissioner be a* tehsildar *or* sezawul, *or the manager of the estate of a disqualified landholder,) so long only as you may hold the office of* tehsildar *or manager of* ————, *or, (if the commissioner be an under-farmer, or an officer, entrusted with the collection of the rent and revenues of any estate or land,) so long only as you may hold the farm or employment of* ————, *or, (if the commissioner be an* altumgahdar, jaghiredar, *or a person vested with the management of an* altumgah *or* jaghire,*) so long as you may hold the* altumgah, *or* jaghire, *or be entrusted with the management of the* altumgah, *or* jaghire *of* ————."

Oath to be taken by the commissioners.

VII. First. *Every commissioner, previous to entering upon the execution of the duties of his office, shall take and subscribe the following oath before the judge of the* zillah *or city court in which he may be appointed to officiate, or any person whom he may commission to administer it.*

"*I A. B.* ——, *(designation of the commissioner, as proprietor of* ————, *or farmer of* ————, *&c.) appointed commissioner for trying and determining civil suits for sums of money, or personal property, not exceeding in amount or value fifty sicca rupees, solemnly swear, that I will impartially determine the suits that may come before me for decision in my capacity of referee* (ameen), *arbitrator* (salis), *and (if the commissioner be a* munsiff) munsiff, *according to the best of my abilities and judgment, and that I will not directly or indirectly receive, or knowingly allow any other person to receive, any money, effects or property, on account of any suit that may come before me for decision, and that I will in all respects truly and faithfully execute the trust reposed in me.*"

Declaration to be subscribed by commissioners who may be exempted from taking oaths.

Second. *If any person who may be appointed commissioner, shall object to taking the oath, and he shall come within the description of the persons exempted from taking oaths by Section* 6, *Regulation IV.* 1793, *on account of their rank or cast, the judge is empowered to exempt him from taking the oath, and to cause him to subscribe a written declaration to the same effect.*

No person to be allowed to officiate as commissioner, until they have taken the oath or subscribed the declaration.

Third. *No person shall be allowed to officiate as commissioner until he has taken the oath, or subscribed the declaration above directed, and the oaths and declarations so subscribed, are to be deposited amongst the records of the* dewanny adawlut.

Commissioners liable to prosecution for corruption, or oppressive and unwarranted acts.

VIII. Commissioners shall be liable to prosecution in the dewanny adawlut *for corruption in the discharge of their trust, and for any oppressive and unwarranted act of authority; and upon proof of the charge to the satisfaction of the judge, he shall in the first mentioned case, adjudge the offender to pay to the prosecutor three times the amount or value of the money or property corruptly received, with all costs of suit; and in the second, award such damages and costs to the party injured as may appear to him equitable. But no commissioner shall be liable to be prosecuted for want of form, or for error, in his proceedings or judgment, nor shall any process whatever be issued against a commissioner, who may be charged with corruption, or any oppressive and unwarranted act of authority, unless the judge shall be previously satisfied by sufficient evidence, that there is ground to believe that the charge is well founded.*

Punishment on conviction.

Commissioners not liable to prosecution for errors or want of form in their proceedings. No process to be issued against commissioners on charges for which he is declared liable to prosecution,

IX. First. *The following are the rules prescribed respecting suits referrible to the city and* zillah *commissioners, in their capacity of referees or* ameens.

until the judge shall be satisfied by previous enquiry that there is sufficient foundation for them.

Rules respecting the reference of suits to the commissioners in their capacity of ameens.

Rules to be observed by the judge in referring suits, now depending or that may be hereafter filed.

Second. *Suits for sums of money, or personal property, not exceeding fifty sicca rupees in amount or value, which may be now depending in, or that may be hereafter preferred, to any* zillah *or city court, and which the judge may not deem it proper to try himself, or cause to be tried by his register, under Section 6, Regulation XIII. 1793, shall be referred by him, if the suit be instituted in either of the three city courts, to one, or two, or more commissioners, or, if it be lodged in a* zillah *court, to the commissioner, nearest to whose place of abode the defendant may reside, unless for special reasons the judge shall deem it proper to refer the suit to any other commissioner, or to any two or more commissioners.*

Fee of four annas *to be paid to the authorised* vakeel *of the plaintiff.*

Third. *The authorized* vakeel *of the plaintiff (if he shall have entertained a* vakeel*) who may act for him at the time the order of reference may be issued, shall receive from the plaintiff four* annas, *as a fee for obtaining the order of reference to the commissioner.*

What the order for reference is to contain, and by what papers it is to be accompanied.

Fourth. *The order for reference of the cause shall bear the seal of the court, and the signature of the judge, and shall specify the number of the cause, as it stands on the register of the court, the names of the parties, the amount or value of the money or property sued for, the date of the reference according to the English era, with the corresponding date of the Bengal, Fussily, or Willaity era, (according to the province in which the court making the reference may be established,) the date by which the plaintiff and defendant, in person or by* vakeel, *and also any witnesses of either of the parties, if any witnesses shall have been named, are to appear before the commissioner, and shall be accompanied by a copy of the petition of complaint, and by such original exhibits as may have been filed in the cause.*

Parties may appoint any persons they may think proper to act as their vakeels *before the commissioners.*

Fifth. *The plaintiff and defendant shall be at liberty to appoint any persons whom they may think proper to act as their* vakeel *before the commissioner, furnishing them with a* vakalutnamah *under their seals and signatures, and attested by two credible witnesses.*

Usual security to be taken from defendants in causes to be tried.

Sixth. *The court is to cause the same security to be taken from the defendant to appear in person or* vakeel *before the commissioners by the limited time, as he would be required to give for his appearance, were he to be tried before the court.*

Commissioner to dismiss the plaintiff's claim, in the event of his not appearing by the limited time.

Seventh. *If the plaintiff shall not appear before the commissioner in person or by a* vakeel *duly authorized, by the limited time, the commissioner shall dismiss his claim.*

Commissioner to try the cause ex parte, *if the defendant shall not appear.*

Eighth. *If the defendant shall not so appear by the prescribed time, the commissioner shall proceed to try the cause* ex parte.

Discretionary power vested in the judge in the cases specified in the two preceding clauses.

Ninth. *In the event, however, of the dismission of the suit under clause seventh, or of its being tried* ex parte *under clause eighth, the judge in the first case may order his register, or the commissioner, to try the merits, or try them himself; and in the second, direct the cause to be tried* de novo, *either by the register or by the commissioner, or try it himself, provided the plaintiff in the former case, and the defendant in the latter, shall show to him satisfactory cause for not having appeared before the commissioner by the prescribed time.*

How the depositions of witnesses in causes referred to the commissioners are to be procured.

Tenth. *If the plaintiff or defendant shall be desirous of summoning any witnesses to appear before the commissioner, and the witnesses shall not attend at the requisition of the parties, the court, on application from the commissioner, or either of the parties, or their* vakeels, *shall cause them to appear before the commissioner, or direct their depositions to be taken before the court, or any commissioner near to whom they may reside. Commissioners, however, acting as* munsiffs *as well as referees, may order any persons declared subject to their jurisdiction in that capacity by clause sixth, Section 5, to attend as witnesses, and in the event of their not obeying the summons, to attach any personal property belonging to them not exceeding the amount or value of the money or property sued for, until they appear as required.*

Commissioners may enforce attendance of witnesses subject to their jurisdiction in their capacity of munsiffs.

How the commissioners are to conduct the trial of the suits.

Eleventh. *The commissioners are to try the suits referred to them, by hearing the pleadings of the parties, examining their documents, and taking the depositions of the witnesses,*

witnesses, in the presence of the parties or their vakeels duly constituted; and in all other respects, they are to consider the principles laid down in the regulations prescribed to the zillah and city courts for trying and deciding suits as the general rule for their guidance, as far as circumstances may admit, and as may be consistent with the expeditious determination of the suits.

Costs and damages to be decreed against the party cast.

Suitable costs and damages to be invariably given in litigious cases.

Twelfth. The commissioner is to decree such costs and damages against the party cast as may appear to him equitable; and if any claim shall appear to him litigious and vexatious, he is invariably to decree suitable costs and damages against the plaintiff.

Commissioners may fine parties, vakeels, or witnesses, for disrespectful behaviour, and the latter for refusing to give their testimony.

Thirteenth. If either of the parties, or their vakeels, or the witnesses in any suit, shall be guilty of disrespectful behaviour to a commissioner whilst in attendance upon him for the trial of the suit, or if any witness duly summoned shall refuse to give his testimony, the commissioner is empowered to impose such fine on the party, vakeel, or witness, so offending, as may appear to him proper on a consideration of the case, and the situation and circumstances in life of the offender, and the fine shall be levied in the same manner as decrees of the commissioners are hereafter directed to be enforced.

Commissioners to deliver copies of their decisions to the plaintiff and defendant, or their vakeels.

Rule to be observed by the commissioners, in the event of the parties omitting or refusing to take a copy of the decree.

Fourteenth. The commissioners are to deliver a copy of their decisions to the plaintiff, and to the defendant, or their respective vakeels, within three days after the day on which the decision may be passed. If the plaintiff, or defendant, or their respective vakeels, shall omit to attend to receive a copy of the decision within the prescribed time, or shall refuse to take a copy of it when tendered, the commissioner shall endorse a note of such refusal or omission on the back of the copy of the decision which he is hereafter required to forward to the court.

Fifteenth. No cause shall be referred to, or tried by a commissioner in which he or any of his immediate servants, may be a party, or in any wise interested.

Commissioners to try the suits themselves, and not to allow any persons to interfere.

Sixteenth. The commissioners are to try and determine all suits themselves, and are not to allow their officers, servants, or dependants, or any other persons to interfere therein.

Rules respecting commissioners in their capacity of arbitrators.

X. First. The following rules are prescribed to commissioners in their capacity of arbitrators (salisân.)

All persons may submit suits to the arbitration of the commissioners without previous application to the court.

Second. Persons, wherever they may reside, are at liberty to refer suits to any commissioner without any previous application to the court, upon executing and delivering to him, an arbitration bond under their signatures, attested by two creditable witnesses, appointing him arbitrator in the cause, and agreeing to abide by his decision, and to make it a decree of the court.

Decisions of the commissioners as arbitrators not to be set aside, but for corruption or partiality.

Third. Decisions passed by the commissioners in their capacity of arbitrators, shall not be set aside, or altered by the court, but for corruption or partiality, proved to the full satisfaction of the court by the oaths of two creditable witnesses.

How the commissioners are to proceed in the event of the parties not attending for the trial of the suit.

Rule for the conduct of the judge in such cases.

Fourth. If the parties, after having executed the arbitration bonds, shall not appear before the commissioner at such time or times as he may prescribe, he shall proceed as directed with regard to the suits specified in clauses seventh and eighth, Section 9, and the discretionary powers vested in the judge in clause ninth of that section, are declared to extend to the suits that may be dismissed or tried ex parte by the commissioners under this clause.

Rules in the clauses hereon mentioned of section 10, applicable to suits submitted to the commissioners in their capacity of arbitrators.

Fifth. The rules contained in clauses fifth, tenth, eleventh, thirteenth, fourteenth, and sixteenth, of Section 9, regarding suits referred to the commissioners in their capacity of referees, are to be considered applicable to suits submitted to them in their capacity of arbitrators.

This regulation not to preclude the court from constituting the commissioners arbitrators, under section 3, Regulation XVI. 1793.

Sixth. No part of this regulation is to be construed to prevent the judges appointing any commissioner arbitrator in the causes specified in Section 3, Regulation XVI. 1793.

Rules applicable to suits referred to the commissioners as munsiffs.

XI. First. The following rules are prescribed respecting suits referrible to commissioners in their capacity of munsiffs.

Commissioners how to procure the appearance of the defendant, and to proceed

Second. When a suit is preferred to a commissioner in his capacity of munsiff, against an individual subject to his jurisdiction in that capacity, as specified in clause sixth, Section 5, he shall require the defendant to appear and answer to the complaint on a certain

day, by a writing to that effect, which shall also specify the nature of the claim, and require the defendant to give personal security for his appearance. If the defendant shall refuse to give security, the commissioner is empowered to attach any personal property belonging to him, not exceeding the amount or value of the money or thing sued for, until he shall give the required security, and in the event of his not giving security before the decision of the suit, and of the decree being passed against him, to hold the property in attachment, and to deliver it to the officer of the court to be sold in satisfaction of the decree, unless the defendant shall previously discharge the amount of it.

In case of his not appearing when summoned.

Third. *But the commissioners in their capacity of* munsiffs *shall on no account summon any woman to appear before them, either as a party or witness in a cause, if her rank, or cast, shall be such as to render it improper, according to the customs and usages of the country, to require her to appear in public.*

Commissioners prohibited summoning in any capacity women who are not allowed to appear in public, according to the laws and customs of the country.

XII. The rules contained in clauses fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth, of Section 9, regarding suits referred to the commissioners in their capacity of referees, are to be considered equally applicable to suits which may come before them in their capacity of munsiffs.

Rules in the clauses herein mentioned of section 9, to be considered applicable to suits coming before the commissioners in their capacity of munsiffs.

XIII. No commissioner, either in his capacity of referee, arbitrator, or munsiff, *shall confine a party,* vakeel, *or witness, in any suit which may come before him, or inflict on them any punishment whatever, excepting imposing fines on parties,* vakeels, *or witnesses, for disrespectful behaviour, and on the latter refusing to give their testimony, as above authorized.*

Commissioners prohibited confining or punishing parties, vakeels, *or witnesses in any manner whatever.*

Exception with regard to parties, vakeels, *or witnesses guilty of disrespectful behaviour, and the latter refusing to give their testimony.*

XIV. The decisions passed by the commissioners in their capacities of referees, arbitrators, or munsiffs, *shall be enforced by the court of* dewanny adawlut, *and no commissioner, in either of those capacities, shall enforce his own decision in any case whatever; and any commissioner who shall issue any process, or use any coercive means, for enforcing his own decision, shall, upon conviction of the act before the* dewanny adawlut *of the* zillah *or city under which he may officiate, be adjudged to pay to the person against whom such process or coercive means may be issued or used a sum equal to twice the amount of the decree, with all costs that may be incurred by him in carrying on the prosecution in the* dewanny adawlut.

Commissioners not to enforce their own decisions.

Penalty for breach of this rule.

XV. To enable the zillah *and city courts to enforce the decisions that may be passed by the commissioners in their capacity of referees, arbitrators, or* munsiffs, *the commissioners shall, on the fifth of every month, transmit to the judge the three following reports of the suits decided by them in the preceding month. These reports are invariably to be accompanied by all the original papers and documents in each cause, and the* razenamahs *in those causes in which the parties cast may have abided by and satisfied the decisions, that they may be deposited amongst the records of the court, and be referred to in the event of an appeal being lodged from any of the decisions. Upon the receipt of these reports, the courts shall enforce the decisions which may not have been satisfied, unless appealed against within the time hereafter limited.*

Monthly reports to be transmitted by the commissioners to the judge, to enable him to enforce their decisions.

Report of causes decided by A. B. proprietor of ——— (or other designation) commissioner, in his capacity of referee (ameen) in the month of ——— 1793 English era, corresponding with the ——— 1200 Bengal (Fussily or Willaity) era.

Number of the cause on the register of the court.	Names of the parties.	Amount or value of the money or property sued for	Decree.	Date of reference according to the English and local era.	Date of the decree.
200	Ram Doss, versus Sheeb Chund.	Forty rupees on bond with interest.	Decreed forty rupees principal, and ten rupees interest, and five rupees costs to plaintiff.	10th Jan. or Maug 1200	1st Chyte.
400	Mohummed Aukil, versus Ramzaan.	Ten rupees balance of rent of land.	Dismissed with one rupee costs to defendant, the claim not being established.	11th Jan. or Maug.	5th Chyte.
450	Ram Chund, versus Netai.	Twenty-four rupees, price of two bullocks.	Dismissed, parties having executed a razenamah.	12th Jan. or Maug.	6th Chyte.

Report of causes decided by A. B. proprietor of ——— (or other designation) commissioner, in his capacity of arbitrator (salis) in the month of ——— 1793 English era, corresponding with the ——— 1200 Bengal (Fussily or Willaity) era.

Names of the parties.	Substance of the cause.	Date of the arbitration bonds of the parties.	Decision.	Date of the Decision.
Mohummed Aukil, versus Ram Churn.	Twenty-four rupees, balance of an account of rent of lands.	20th Maug.	Awarded twenty-two rupees to plaintiff.	10th Phaugun.

Report of the causes decided by A. B. proprietor of ——— (or other designation of the commissioner) in his capacity of munsiff, *in the month of ——— 1793, English era, corresponding with the ——— 1200 Bengal (Fussily or Willaity) era.*

Names of the parties.	Substance of the suit.	The decision.	Date on which the suit was preferred.	Date of the decision.
Ram Churn, versus Radanaut.	Twenty rupees on bond with interest.	Decreed twenty rupees principal in favour of the plaintiff, and five rupees interest, and one rupee costs. Total 26 Rupees.	1st Maug.	10th Maug.

Decisions of commissioners as referees to be inserted in the monthly abstract register of causes decided.

Causes decided by the commissioners as arbitrators and munsiffs, *to be brought on the monthly abstract register.*

Quarterly reports of causes undecided to be sent to the commissioners.

XVI. The decisions passed by the commissioners in their capacity of referees, are to be brought on the monthly abstract register of causes decided, which the courts are required to transmit to the provincial courts of appeal and Sudder Dewanny Adawlut, by Section 11, *Regulation XVIII.* 1793. *The causes which may be decided by the commissioners in their capacity of arbitrators and* munsiffs, *shall also be brought on the monthly abstract register.*

XVII. The commissioners shall likewise be required to transmit, on the last day of the third, sixth, ninth, and twelfth month of the Bengal, Fussily, or Willaity year, (according to the era current in the province,) reports of the causes depending before them, in their respective capacities of referees, arbitrators, and munsiffs, *drawn out in the following form.*

Report of causes before A. B. proprietor of———(or other designation of the commissioner) in his capacity of referee, remaining undecided on the———Bengal (Fussily or Willaity) era.

Number of the cause on the register of the court.	*Names of the parties.*	*Substance of the suit.*	*Date of reference.*	*Remarks explanatory of the cause of the suit not having been decided.*
300	*Ram Churn,* versus *Gunga Bishun.*	*Ten rupees on bond with interest.*	*10th January 1793, or — Maug.*	

Report of causes before A. B. proprietor of ——— (or other designation of the commissioner), in his capacity of arbitrator, on the ——— Bengal (Fussily or Willaity) era.

Names of the parties.	*Substance of the suit.*	*Date of the execution of the arbitration bonds.*	*Remarks explanatory of the cause of the suit remaining undecided.*
Bishenaut, versus *Akber Ally.*	*Thirty rupees, balance of accounts.*	*10th Maug.*	

Report of causes before A. B. proprietor of ——— (or other designation of the commissioner) in his capacity of Munsiff, remaining undecided on the——— Bengal (Fussily or Willaity) era.

Names of the parties.	*Substance of the suit.*	*Date on which it was preferred.*	*Remarks explanatory of the cause of the suit remaining undecided.*
Peer Mahomed, versus *Ramduloll.*	*Forty rupees on bond.*	*14th Maug.*	

XVIII. The required monthly and quarterly reports, shall be enclosed in a cover, addressed to the judge, and sealed with the seal of the commissioner. The packet shall be forwarded to the judge, either by the public dawk, *the officers of which are hereby required to receive and convey such packets free of postage, or, by a servant of the commissioner; or the commissioner may deliver it to the nearest police* darogah, *who shall give a receipt for it, and convey it to the judge with the monthly report which he is required to transmit to him in his capacity of magistrate, by Section* 21, *Regulation XXII.* 1793.

By what conveyance the commissioners are to transmit their monthly and quarterly reports.

XIX. The judges of the zillahs *and cities, are to distinguish in their monthly abstract register of causes decided, the suits which may have been determined by the commissioners; and in their half yearly reports of causes undecided, they are to distinguish the causes depending before the commissioners in their capacity of referees.*

Causes decided by the commissioners, and depending before them in their capacity of referees, to be distinguished in the monthly abstract registers, and half yearly reports.

XX. Any person dissatisfied with the decision of a commissioner, either in his capacity of referee, arbitrator, or munsiff, *shall be at liberty to appeal from it to the judge of the* dewanny adawlut *of the* zillah *or city under which the commissioner may officiate, provided the petition of appeal be presented within thirty days after the date of the decision, a copy of which the appellant is required to present with the petition of appeal. A discretionary power however is vested in the judge of admitting appeals from decisions of the commissioners, although the petitions may be presented after the prescribed period, if the appellant shall shew satisfactory cause to him for not having presented the petition within the limited time.*

An appeal to lie to the Judge for all decisions passed by the commissioners, provided the petition of appeal be presented within thirty days after the date of the decree.

Discretionary power vested in the judge of admitting appeals after the limited time.

XXI. All petitions of appeal from decisions of the commissioners are to be presented to the court of dewanny adawlut *of the* zillah *or city under which the commissioners may officiate, and the commissioners are prohibited from receiving any petitions of appeal from their own decisions.*

Petitions of appeal to be presented to the court of dewanny adawlut.

Commissioners prohibited receiving petitions of appeal.

XXII. All petitions of appeal from decisions of the commissioners are to be presented by the appellant in person, or one of the authorized vakeels *of the court, and if the appeal shall be admitted, and the appellant and respondent shall not plead their cause in person,*

Petitions of appeal to be presented by the appellant in person, or by an authorised vakeel.

Fees to be allowed to the authorised vakeels.

their respective vakeels *are to be allowed the same fees as in suits tried before the judge, as prescribed in Regulation VII.* 1793. *If a petition of appeal so presented through an authorized* vakeel *shall be rejected, the* vakeel *shall be entitled to a fee of four annas.*

Decisions of the commissioners not to be set aside, but on the merits.

XXIII. Decisions of the commissioners are not to be set aside for want of form, or irregularity in their proceedings, but on the merits only.

Cases in which the judges may suspend the execution of the decision of a commissioner, in the event of the admission of an appeal from it.

XXIV. In case of an appeal being received from the decision of a commissioner, the judge is empowered to suspend the execution of the decree, provided the party appealing against it shall give good and sufficient security, on or before the next court day after the day on which the appeal may be presented, to perform the decree of the court.

Judges may order causes depending before the commissioners as referees or munsilla, *to be brought up for trial before them or their registers.*

XXV. The zillah *and city courts may, for any reason that may appear to them sufficient, bring up for trial before them, or their registers, any causes that may be depending before the commissioners.*

Judges to proceed to select commissioners on the receipt of this regulation, and when approved by the Sudder Dewanny Adawlut, to refer to them the suits depending in their courts, not exceeding fifty sicca rupees, with the exceptions herein specified.

XXVI. Upon the receipt of this regulation, the judges of the several zillahs *and cities are to proceed to select the commissioners, and upon the persons nominated by them being approved by the Sudder Dewanny Adawlut, they shall refer to them for trial, all suits now depending in their respective courts for sums of money or personal property not exceeding fifty sicca rupees in amount or value, which they may not deem it proper to try themselves, or to refer to their registers for trial.*

Rules to be observed by the judge, on the office of commissioner becoming vacant.

XXVII. Upon the death, removal, resignation, or the expiration of the commission of any commissioner, the judge shall, if necessary, immediately nominate another commissioner in his room for the approbation of the Sudder Dewanny Adawlut, and cause all the papers in the causes depending before the late commissioner to be delivered over to his successor, or otherwise disposed of as circumstances may require.

A. D. 1795. REGULATION XXXI.

A REGULATION *for extending to the Province of Benares, with Modifications, Regulation XL.* 1793, *entitled "A Regulation for granting Commissions to Natives, to hear and decide civil Suits for sums of Money, or personal Property of a Value not exceeding fifty Sicca Rupees, and prescribing Rules for the Trial of the Suits, and enforcing the Decisions which may be passed upon them."*—PASSED *by the Governor General in Council, on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE *Governor General in Council, having deemed it advisable to grant commissions to natives in the province of Benares, for determining civil suits for sums of money or personal property, not exceeding in amount or value fifty sicca rupees, for reasons similar to those which induced him to grant such commissions to natives in the provinces of Bengal, Behar, and Orissa, as stated in the preamble to Regulation XL.* 1793; *and it being necessary, in consequence of certain districts, which surround the city of Benares and its suburbs, having been included in the jurisdiction of the city court, that rules should be prescribed for enabling the commissioners who may reside in those districts, to officiate as* munsiffs, *and the difference in the system of police in the province of Benares, from that established in the provinces of Bengal, Behar, and Orissa, requiring that separate provisions should be made for the conveyance of the monthly and quarterly reports of the commissioners to the judges; and it being necessary that some variation should be made in the form of the commissions to be granted to the commissioners in the province of Benares; the following rules have been enacted.*

Regulation XL. 1793, extended to Benares, with modifications.

II. Commissions shall be granted to Mahomedans and Hindoos, in the city of Benares, and the places adjacent, subject to the jurisdiction of the city court, and in the zillahs *of Mirzapore, Ghazeepore, and Juanpore, to try and determine suits for sums of money, or personal property, not exceeding in amount or value fifty sicca rupees, under the rules prescribed in Regulation XL.* 1793, *respecting the city and zillah commissioners in the provinces of Bengal, Behar, and Orissa, with the modifications specified in the following sections.*

All the commissioners in the city jurisdiction, to be considered as city commissioners.

Commissioners residing out of the city of Benares, and its suburbs, may be appointed munsiffs.

III. All the commissioners in the jurisdiction of the city court, whether residing within or without the city of Benares and its suburbs, shall be considered as city commissioners; but the judge of the city court, with the sanction of the Sudder Dewanny Adawlut, is empowered to nominate the commissioners residing in that part of his jurisdiction, which is without the limits of the city of Benares, and its suburbs, to officiate as munsiffs *as well as referees, and arbitrators, in cases in which it may appear to him necessary.*

By what conveyance the commissioners in the province of Benares, are to

IV. In lieu of the provisions made in Section 18, *for the conveyance of the monthly and quarterly reports of the commissioners to the judges, those reports, in the province of*

* This entire Regulation is rescinded by Section 2, Regulation XXIII. 1814.

transmit their monthly and quarterly reports.

Benares, are to be enclosed in a cover, addressed to the judge of the city or zillah, *and sealed with the seal of the commissioner. The packet shall be forwarded to the judge, either by the public dawk, the officers of which are hereby required to receive and convey such packets free of postage, or by a servant of the commissioner, or the commissioner (if he be not himself a* tehsildar*) may deliver it to the nearest* tehsildar, *who shall give a receipt for it, and convey it to the judge, with the monthly report which he is required to transmit to him in his capacity of magistrate by Regulation XVII.* 1795.

Form of the commission to be granted to the commissioners.

First. *The following form of commission is to be granted to the commissioners in the province of Benares, instead of that prescribed for the commissioners in the provinces of Bengal, Behar, and Orissa, in Section* 6.

Form.

Second. "*I, A. B. judge of the* dewanny adawlut *of the city of Benares, or the* zillah *of*———*in virtue of the powers vested in me by Regulation XL.* 1793, *and Regulation XXXI.* 1795, *appoint you*———*commissioner, with the powers of referee,* (ameen,) *and arbitrator,* (salis,) *and (if the commissioner be appointed* munsiff *also,)* munsiff, *for trying and deciding suits for sums of money, or personal property of a value not exceeding fifty sicca rupees, which may be referred to you by the court in your capacity of referee,* (ameen,) *or that may be submitted to you by the parties by arbitration bonds, in your capacity of arbitrator,* (salis,) *or, (if the commissioner be a* munsiff *also,) that may be preferred to you in the first instance, in your capacity of* munsiff, *against any individual coming within the description of the persons subject to your jurisdiction as described in clause sixth, Section* 5, *Regulation XL.* 1793, *and residing in your estate, farm,* jaghire, altumgah, *or other lands, the rents and revenues of which are collected by you. You are to fix up this commission in the room or place, in which you may try and decide the suits that may come before you, in either of the capacities above mentioned, and are not on any account to try or decide any suit without so fixing up this commission, or a counterpart or copy of it, under the seal and signature of the judge of the city of Benares, or the* zillah *of*———. *You are to try and decide all such suits, and to exercise the authority vested in you, agreeably to the rules prescribed in Regulation XL.* 1793, *and Regulation XXXI.* 1795, *or such other regulations for your guidance, as have been or may be passed by the Governor General in Council, and printed and published as prescribed in Regulation XLI.* 1793. *You are to exercise the powers of commissioner herein vested in you, (if the commisioner be a* cauzy,*) so long only as you may hold the office of* cauzy *of*———, *or, (if the commissioner be a proprietor of land,) so long as you may be the proprietor of the estate of*———, *and pay the revenue assessed thereon to Government, or, (if the commissioner be a farmer of land holding a farm immediately of Government,) so long only as you may hold the farm of*———, *or, (if the commissioner be a* tehsildar, *or* sezawul, *or the manager of the estate of a disqualified landholder,) so long only as you may hold the office of* tehsildar, *or manager of*———, *or, (if the commissioner be an under-farmer, or an officer, entrusted with the collection of the rents and revenues of any estate or land,) so long only as you may hold the farm or employment of*———, *or, (if the commissioner be an* altumgahdar, jaghiredar, *or a person vested with the management of an* altumgah, *or* jaghire,*) so long as you may hold the* altumgah, *or* jaghire, *or be entrusted with the management of the* altumgah, *or* jaghire of———".

A. D. 1795. REGULATION XXXVIII*.

A REGULATION *for prescribing the Payment of certain Fees on the Institution and Trial of Suits in the Courts of Civil Judicature, and on Petitions presented to those Courts, and on the institution of Suits before the Munsiffs under Clause sixth, Section 5, Regulation XL. 1793; and for the Appropriation of the Fees so collected.*—PASSED *by the Governor General in Council, on the 10th April 1795; corresponding with the 30th Chyte 1201 Bengal era; the 6th Bysaak 1202 Fussily; the 30th Chyte 1202 Willaity; the 6th Bysaak 1852 Sumbut; and the 19th Ramzaan 1209 Higeree.*

Preamble.

NO expence attending the institution of suits in the first instance; and the ultimate expence being moderate and limited, whatever length of time the suit may be depending; and no fees whatever being charged on the exhibits and papers filed in the courts, nor on petitions presented to the courts not immediately forming part of the proceedings in any suit under trial; many groundless and litigious suits and complaints have been instituted against individuals, and the trials of others have been protracted, by the filing of superfluous exhibits, or the summoning witnesses whose testimony was not necessary to the development of the merits of the case. The business in many of the courts of judicature has in consequence increased, so as to prevent the judges determining the causes and complaints filed with that expedition, which is essential for deterring individuals from instituting vexatious claims, or refusing to satisfy just demands, and for giving full effect to the principles of the regulations. The establishing of fees on the institution and trial of suits, and on petitions presented to the courts, being considered to be the best mode of putting a stop to this abuse of the ready means now afforded to individuals of availing themselves of the exercise of the laws, without obstructing the bringing forward of just claims; the following rules have been enacted.

Fee of one anna in the rupee to be paid on the institution of suits before the *munsiffs*.

II. *First.* The native commissioners vested with the powers of *munsiff*, under Regulation XL. 1793, are to levy from the plaintiff, in every suit that may be preferred to them in the first instance, a fee of one anna in the rupee on the amount of the money, or the value of the personal property, which may constitute the subject of the suit.

Suits not to be received until the fee be paid.

Second. The *munsiffs* are not to receive any such suit, until the prescribed fee shall have been paid.

Where the *munsiffs* are to record the amount of the fees received by him.

Third. The *munsiffs* are to endorse on the back of the petition of complaint, the amount of the fee which may be so received by them, and the date of the receipt of it, and subscribe the endorsement with their signature; and they shall also state the amount after the particulars of the decision of the suit, in the third column of the monthly report which they are required to transmit to the judge in their capacity of *munsiff*, by Section 15, Regulation XL. 1793.

How the fees received by the *munsiffs* are to be appropriated.

Fourth. The *munsiffs* are to appropriate the fees they may collect under this section, to their own use, as a compensation for their trouble, and an indemnification for the expence which they may incur in the execution of the duties of their office.

This regulation is not now in force. See Regulation VI. of 1797, and Regulation I. XXIII. and XXVIII. of 1814.

Fees to be paid on suits preferred to the *zillah* and city courts. Courts prohibited from filing the petitions until the fees be paid.

III. *First.* The following fees are to be paid by plaintiffs on the institution of suits in the *zillah* and city courts, and the courts are prohibited filing any petition of complaint until the fees shall have been paid.

Fees on suits for money or personal property.

Second. In suits for money, or for the value of personal property.

On sums not exceeding Sicca Rupees,	Fifty,	One anna per rupee.
	Two hundred,	Half an anna per rupee.
	One thousand,	Three
	Five thousand,	Two
	Twenty-five thousand,	One } per cent.
	Fifty thousand,	Half
On sums exceeding	Fifty thousand,	a Quarter

Rules for calculating fees on all sums exceeding fifty rupees.

The fees on sums exceeding fifty rupees, are to be calculated in the following manner. On sums exceeding fifty rupees, and not above two hundred, one anna on fifty rupees, and half an anna on the remainder of the amount. On sums above two hundred, but not exceeding a thousand, one anna on fifty rupees, half an anna on one hundred and fifty rupees, and three per cent. on the remainder of the amount. The same rule of calculation, at the prescribed rates, is to be observed on all sums exceeding one thousand rupees.

Fees on claims to *malguzaree* land.

Third. In suits for *malguzaree* land (land paying revenue to Government), fees are to be levied from the plaintiff on the amount of the annual *jumma* payable from the land to Government, at the rates and under the rules specified in clause second.

Fees on claims to *lakheraje* land.

Fourth. In suits for *lakheraje* land (land held exempt from the payment of revenue to Government), fees are to be paid by the plaintiff at the rates, and under the rules specified in clause second, on the annual produce of the land, which is to be estimated according to the rule prescribed in Section 3, Regulation IV. 1793.

Fees on claims to real property not being *malguzaree* or *lakheraje* land.

Fifth. In suits for houses, tanks, gardens, or other real property, not being land of the descriptions specified in the two preceding clauses, fees are to be paid by the plaintiff on the estimated value of the property, at the rates and under the rules specified in clause second.

Registers to receive the fees paid under this section, on suits determined before them.

Sixth. The fees collected under this section, on suits which may be referred by the judge to his register for decision under Regulation VIII. 1794, shall be paid to the register by whom the suits may be determined, or before whom they may be depending, in the event of the parties adjusting them by *razeenamah*, and the amount shall be appropriated to his own use.

Commissioners in their capacity of referees and arbitrators, to receive from the court the fees levied under this section on suits determined before them.

Seventh. The fees that may be collected under this section, on suits which may be referred to the commissioners for decision in their capacities of referees *(ameens)*, or arbitrators *(salisan)*, under Regulation XL. 1793, shall be paid by the courts to the commissioner by whom the suits may be determined, or before whom they may be depending, in the event of the parties adjusting them by *razeenamahs*, as a compensation for their trouble, and an indemnification for the expence which they may incur in the discharge of the duties of their office.

Fees to be paid on the trial of suits in the *zillah* or city courts, or before the registers of those courts.

IV. *First.* The following fees are to be paid on the trial of suits, tried in the first instance by the judges of the *zillah* and city courts, or by their registers.

In suits for money, or personal property, not exceeding in amount or value two hundred sicca rupees, or for *lakheraje* land, the annual produce of which shall not be above twenty sicca rupees, or for *malguzaree* land, the annual *jumma* payable from which to Government shall not exceed two hundred sicca rupees, or for other real property, the estimated value of which shall not be above two hundred sicca rupees.

On every exhibit filed in addition to the plaint, answer, reply, and rejoinder, four annas.

On every witness summoned, or ordered to be examined on commission, four annas.

In suits for money, or property, the amount, value, annual *jumma*, or annual produce of which may exceed that above specified, but which shall not be such as is declared to render a suit appealable to the Sudder Dewanny Adawlut.

On every exhibit filed, in addition to the plaint, answer, reply, and rejoinder, eight annas.

For every witness ordered to be summoned, or examined on commission, eight annas.

In suits for money or property, the amount, value, annual *jumma*, or annual produce of which shall be such as is declared to render a cause appealable to the Sudder Dewanny Adawlut,

On every exhibit, filed in addition to the plaint, answer, reply, and rejoinder, one rupee.

On every witness summoned, or ordered to be examined on commission, one rupee.

Second. The fees to be levied under this section, are to be paid on the determination of the suit, and the amount of them is to be invariably specified with the other costs, in the decree.

Fees to be levied under this section to be paid on the determination of the suit.

Third. The fees paid under this section are to be carried to the account of Government.

Fees paid under this section to be carried to the public account.

V. *First.* In appeals to the judges of the *zillah* and city courts, from the decisions of the native commissioners appointed under Regulation XL. 1793, in their capacities of referees, arbitrators, or *munsiffs*, and from decisions passed by the register under Regulation VIII. 1794, fees are to be levied on the institution of the appeal, on the amount of the money, or the value, or the annual *jumma*, or the annual produce of the property which may constitute the subject of the appeal, and on the trial of the appeal, at the rates, and under rules and restrictions similar to those specified in Sections 3. and 4.

Fees to be paid on the institution and trial of appeals from the decisions of the native commissioners and the registers.

Second. To prevent misconstruction, it is declared, that if an appellant shall present a petition of appeal to the court, or (if the decree with which the party may be dissatisfied shall have been passed by the register) to the register, and the judge or register, in conformity to the rule prescribed in clause first, Section 3, respecting petitions of complaint preferred in the first instance to the *zillah* and city courts, shall refuse to file the petition, in consequence of the petitioner not having paid the fees, and he shall not both pay the fees and present the petition before the elapse of the time limited for filing petitions of appeal, his having presented the petition without the fees before the expiration of the limited time for appealing, shall not be considered as preserving to him his right of appeal, but his appeal shall be rejected, unless the judge should deem it proper to admit the appeal under the discretionary power vested in him by Section 20, Regulation XL. 1793, or clause second, Section 3, Regulation XXXVI. 1795, according as the decision appealed from may have been passed by a native commissioner, or a register.

Persons desirous of appealing, who shall not pay the fees, and present their petition of appeal within the limited time, to forfeit their right to an appeal.

Third. The fees paid under this section, are to be carried to the account of Government.

Fees paid under this section to be carried to the public account.

VI. *First.* In appeals preferred to the provincial courts of appeal from the decisions of *zillah* and city courts, and in appeals presented to the Sudder Dewanny Adawlut, from the decisions of the provincial courts of appeal, and in suits tried in the first instance in the provincial courts of appeal, and in the Sudder Dewanny Adawlut, the provincial courts of appeal and the Sudder Dewanny Adawlut respectively, are to levy fees on the institution of the appeals or suits, on the amount of the money, or the value, or the annual *jumma*, or the annual produce, of the property which may constitute the subject of the appeals, or suits, and also on the trial of the appeals or suits, at the rates, and under rules and restrictions similar to those specified in Sections 3. and 4, and clause second, Section 5.

Fees to be levied on appeals, and on suits tried in the first instance in the provincial courts of appeal and the Sudder Dewanny Adawlut.

Second. The fees paid under this section are to be carried to the account of Government.

Fees paid under this section to be carried to the public account.

VII. *First.* The fees directed to be collected in the preceding sections of this regulation, on the institution of suits or appeals, are to be added by the court or commissioner, before whom the suits or appeals may be tried, to the costs that may be awarded against the party who may be cast, or, in cases from a consideration of the circumstances of which the courts or commissioners may deem it proper so to do, they may order the fees to be borne by the parties respectively in such proportions as they may consider equitable.

By whom the fees directed to be levied in the preceding sections on the institution of suits or appeals are to be ultimately paid.

Second. The fees on exhibits and summonses, which are directed to be paid on the determination of the suits and appeals, shall invariably be specified in the decrees, with the other costs; and the amount of them, shall be defrayed by the party cast, or by the parties respectively, in such proportions as the courts may deem equitable, on a consideration of the circumstances of the case.

By whom the fees on exhibits and summonses for witnesses, and orders for the examination of them, shall be paid.

Third. In cases in which suits depending before the *zillah* or city courts, or the provincial courts of appeal, or the Sudder Dewanny Adawlut, shall be adjusted by the parties by *razeenamah*, the fees which may be due on any exhibits, or summonses for witnesses, or orders for the examination of them, which may have been filed or issued, shall be collected from

By whom the fees on exhibits and summonses for witnesses, or orders for examining them, are to be paid, in the event of the

parties adjusting the suit or appeal by *razeenamahs*.

from the plaintiff or appellant, who is to settle with the defendant or respondent, the proportions in which the amount is to be defrayed by them respectively.

Paupers may be exempted from the payment of fees, under the rules and restrictions herein specified.

VIII. In cases of paupers, the Sudder Dewanny Adawlut, the provincial courts of appeal, and the* zillah *and city courts, are empowered to dispense with the payment of the fees directed to be levied in the preceding sections, under rules and restrictions similar to those prescribed in Regulation XLVI.* 1793, *regarding paupers who are unable to plead their own causes, or to find the security therein required for the payment of the fees of the* vakeels. *Commissioners in their capacity of* munsiffs *are empowered to dispense with the payment of the fees in suits instituted before them in the first instance, under the rules and restrictions prescribed to the courts in this section.*

Munsiffs may dispense with the payment of the fees on the institution of suits, under the restrictions prescribed to the courts.

Fees to be taken on petitions presented to the Sudder Dewanny Adawlut, and the provincial courts of appeal, and the *zillah* and city courts.

IX. Fees, calculated at the rates of the fees required to be paid on exhibits by Section 4, according to the property to which the petition may relate, shall be paid on every petition not immediately forming part of the proceedings in any suits or appeal depending before the court which may be presented to the Court of Sudder Dewanny Adawlut, or the provincial courts of appeals, or the *zillah* or city courts; and until the fee be paid, the petition shall not be filed, unless in consideration of the poverty of the petitioner, the court shall deem it proper to dispense with the payment of the fee, in which case they are empowered to remit it.

Fees above prescribed to be paid on all causes or appeals now depending in any of the courts of judicature, and instituted subsequent to the 1st of May 1793, and prior to this date.

X. *First.* The fees required to be paid in the preceding section on the institutions of suits or appeals, which may be hereafter preferred to the *zillah* or city courts, the provincial courts of appeal, and the Sudder Dewanny Adawlut, shall be paid, under the like rules and exceptions with regard to paupers, by the plaintiff, or appellant, in all suits or appeals now depending in those courts, which may have been instituted subsequent to the 1st May 1793, and prior to this date, unless the parties in such suits or appeals shall execute *razeenamahs*, and withdraw the suits or appeals, in which case they shall not be liable to the payment of such fees.

Fees not to be paid in any of such causes or appeals which the parties may adjust amongst themselves, and withdraw by *razeenamahs*.

Suits and appeals filed since the 1st of May 1793, and prior to this date, to be dismissed unless withdrawn, or the fees are paid within one month from the date of the publication herein specified.

Second. If the plaintiffs or appellants, in the suits or appeals specified in the preceding clause, shall not pay the fees, or adjust and withdraw the suits, under the option allowed to them in that clause, within one month after they may be required to discharge the fees by a publication to that effect, which the several courts are required to fix up in their court-rooms as soon as may be practicable after the receipt of this regulation, the courts in which such suits or appeals may be depending, shall dismiss them with costs to the defendant, or respondent, unless the plaintiff or appellant shall show to their satisfaction, good and sufficient cause for not having paid the fees as therein required.

Causes and appeals dismissed under the preceding clause may be reinstituted on payment of the fees.

Third. Persons whose suits or appeals may be dismissed under the preceding clause, shall be at liberty to re-institute them on paying the required fees.

Fees to be carried to the public account.

Fourth. The fees which may be paid under this section are to be carried to the account of Government.

The prescribed fees on the trial of causes and appeals hereafter instituted to be paid in all causes and appeals now depending.

XI. The fees above required to be paid on exhibits and summonses, or orders for the attendance or examination of witnesses, on the trial of suits or appeals that may be hereafter instituted, shall be paid, under the like rules and exceptions with regard to paupers, on all such exhibits, summonses, and orders, which may be filed or issued after this date, in any suits or appeals now depending in the courts, and the trial of which may be prosecuted, whether they shall have been filed previous or subsequent to the 1st May 1793; and the fees which may be so collected, shall be carried to the public account.

Fees directed to be paid by Section 9, to be levied on all petitions now before the courts.

XII. The fees directed to be levied on petitions of the nature of those specified in Section 9, shall be paid, under the like rules and exceptions with regard to paupers, on all such petitions as may have been presented previous to the date of this regulation, to the courts of Sudder Dewanny Adawlut, the provincial courts of appeal, and the *zillah* and city courts, on which orders have not been passed; and those courts respectively, are prohibited from passing any orders on such petitions, until the fees be paid. The fees levied under this section are to be carried to the account of Government.

Fees paid under this section to be carried to the public account.

* Rescinded by Section 2, Regulation XXIII. 1814.

A. D. 1795. REGULATION LX*.

A REGULATION *for extending to the Province of Benares, Regulation XXXVIII. 1795, entitled "A Regulation for prescribing the Payment of certain Fees on the Institution and Trial of Suits in the Courts of Civil Judicature; and on Petitions presented to those Courts; and on the Institution of Suits before the Munsiffs, under Clause Sixth, Section 5, Regulation XL. 1793."—*PASSED *by the Governor General in Council, on the 13th November 1795; corresponding with the 30th Kautic 1202 Bengal era; the 17th Kautic 1203 Fussily; the 30th Kautic 1203 Willaity; the 17th Kautic 1853 Sumbut; and the 30th Rubbee us Sanee 1210 Higeree.*

Preamble.

THE reasons assigned in the preamble to Regulation XXXVIII. 1795, for prescribing the payment of certain fees on the institution and trial of suits in the courts of civil judicature in the provinces of Bengal, Behar, and Orissa, and on petitions presented to those courts, and on the institution of suits before the *munsiffs* under clause sixth, Section 5, Regulation XL. 1793, being with little exception applicable to the province of Benares, the following rules have been enacted.

Regulation XXXVIII. 1795, extended to the province of Benares.

II. The rules contained in Regulation XXXVIII. 1795, are hereby extended to the province of Benares.

* Reg. XXXVIII. of 1795, being not in force, this regulation, also, is virtually superseded.

A. D. 1797. REGULATION XVIII*.

A REGULATION *for authorizing the Judge of Zillah Chittagong to refer Suits for landed Property in certain Cases to the native Commissioners acting in that Zillah as Referees under Regulation XL.* 1793.—PASSED *by the Vice-President in Council, on the 8th December* 1797; *corresponding with the 25th Aughun* 1204 *Bengal era; the 4th Poose* 1205 *Fussily; the 25th Aughun* 1205 *Willaity; the 4th Poose* 1854 *Sumbut; and the 18th Jemaud-us Sanee* 1212 *Higeree.*

Preamble.

LANDED *property in the district of Chittagong is for the most part distributed into very small portions; amongst the numerous proprietors of which and their tenants, so many disputes continually arise regarding the property or boundaries of their respective tenures, that the unremitting assiduity of the* zillah *judge and his register, has been found insufficient to bring them to an early trial and decision; whereby one of the primary objects of the existing judicial regulations, the speedy administration of justice, has been materially obstructed in the above district; and the injured party, despairing of timely redress by due course of law, has in some instances had recourse to violence and other illegal means to redress himself. To remedy these evils, so incompatible with the security of property and good order of society, established in other parts of the Company's provinces, and which it is equally the desire of Government to establish universally, the Vice-President in Council has thought proper to enact the following rules for the more speedy administration of justice in the cases referred to; which are to be considered in force in the* zillah *of Chittagong only, from the date of their receipt by the judge of that district.*

Judge of Chittagong authorized to refer to the native commissioners appointed referees under Regulation XL. 1793, suits for landed property, the annual produce of which may not exceed fifty sicca rupees, if malguzaree; *or five sicca rupees, if* lakheraj.

II. The judge of the zillah *of Chittagong, in addition to the suits for sums of money or personal property not exceeding in amount or value fifty sicca rupees, which he is authorized to refer to the native commissioners described in Regulation XL.* 1793, *is hereby authorized to refer to any of the native commissioners appointed under that regulation in the capacity of referee* (ameen,) *or who may be hereafter appointed in that capacity, suits for landed property, the annual produce whereof, if* malguzaree, *shall not exceed fifty sicca rupees; or if* lakheraj, *the produce whereof shall not exceed five sicca rupees per annum. What is meant by the annual produce of* lakheraj *and* malguzaree *lands has been already declared in Section* 3. *of Regulation IV.* 1793.

Referees under this regulation to be denominated commissioners of land suits. Sunnuds to be issued to them.

III. The commissioners to whom the zillah *judge may think it proper to refer suits for landed property under the preceding section, shall be denominated commissioners of land-suits; and, as such, shall receive a separate* sunnud *from the* zillah *judge in the form prescribed by Section* 6. *of Regulation XL.* 1793, *with the requisite alteration of jurisdiction conformably to this regulation. They shall also, with a similar alteration, take and subscribe before the* zillah *judge the oath prescribed in Section* 7. *of the above-mentioned regulation.*

And oath to be taken by them.

Rules and provisions in Regulation XL. 1793, applicable to referees, declared

IV. The whole of the rules and provisions contained in Regulation XL. 1793, *as far as they apply to the native commissioners therein described in the capacity of referee*

The whole of this regulation is rescinded by Section 2, Regulation XXIII. 1814.

equally applicable to commissioners of land-suits under this regulation.

(ameen) *are to be considered equally applicable to, and obligatory upon, the native commissioners acting in the same capacity as commissioners of land-suits, under the authority given by this regulation, and the whole of the proceedings of such commissioners are to be regulated accordingly.*

Further special rules for commissioners of land-suits.

V. First. *The following special rules are further prescribed for their guidance.*

In cases of inheritance or succession, the Mussulman or Hindoo law to regulate the decision.

Second. *In all cases of inheritance of, or succession to, landed property, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to regulate the decision; and the commissioners in all such cases are to obtain an exposition of the law from the law officers of the* zillah *court; to whom they are to transmit a written abstract of the case for this purpose. Such exposition, however, is not to preclude a further reference to the law officers of the* zillah *court upon such points of law as may arise upon the cause, in the event of its being brought in appeal before the judge under Section* 20. *of Regulation* XL. 1793, *and the other provisions in that regulation, relative to appeals, which are to be considered as applicable to every decision for landed property passed under this regulation.*

In what manner the commissioners are to obtain an exposition of the law in such cases.

Such exposition not to preclude a further reference to the law officers of the zillah *court, in case of appeal to that court.*

Public notification to be given in all suits for inheritance or succession.

Third. *In all suits relative to the inheritance of, or succession to, landed property, the commissioners are to affix in some conspicuous part of their* cutcherrees, *a written notification of the claim preferred, with a requisition to all persons who have any claim to the property sued for, to prefer the same within a limited period: and their decisions are to include all claimants to the property in question, who, according to the law of the parties, whether Mussulman or Hindoo, have a just and legal title to share therein.*

And the decisions to include all claimants who have a just and legal title.

Separate report to be made to the zillah *judge of causes decided by commissioners of land-suits.*

Fourth. *The commissioners, in transmitting their proceedings to the* zillah *judge for the enforcement of the decisions passed by them, as required by Section* 15. *of Regulation* XL. 1793, *are to prepare and transmit a separate report of causes decided by them as commissioners of land-suits in the same form as is prescribed in the abovementioned section for the reports of causes decided by referees.*

Judge of Chittagong to select and nominate proper persons to be employed as referees under this regulation.

Suits to be referred to them when approved by the Sudder Dewanny Adawlut.

VI. The judge of zillah *Chittagong, upon the receipt of this regulation, shall select such persons as he may think proper to be employed as referees under the provisions contained in it, paying due regard to the character and qualifications of the persons so selected; and nominating them for the approbation of the Sudder Dewanny Adawlut, conformably to Section* 3. *of Regulation XL.* 1793; *after obtaining which, he shall refer to them all suits depending in his court for landed property under the limitations specified in this regulation, excepting such as he may think proper to try himself, or refer to his register.*

An ultimate appeal reserved to the provincial court in all cases referred to in this regulation.

VII. By the existing regulations, an appeal lies to the provincial court from all decisions of the zillah *judges, in suits for real property, whether decided in appeal or otherwise; and nothing in this regulation is to be understood to preclude an ultimate appeal to the provincial court in the cases herein referred to under the general rules and restrictions relative to appeals.*

A. D. 1803. REGULATION XVI*.

A REGULATION *for granting Commissions to Natives, to hear and decide civil Suits for Sums of Money or personal Property, of a Value not exceeding fifty Sicca Rupees; for authorizing the Appointment of Head Native Commissioners for the Trial of referred Causes, to the Amount or Value of one hundred Sicca Rupees; and prescribing Rules for the Trial of the Suits, and enforcing the Decisions which may be passed upon them, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the 24th of March,* 1803; *corresponding with the 12th Chyte* 1209 *Bengal era; the 16th Chyte* 1210 *Fussily; the 12th Chyte* 1210 *Willaity; the 16th Chyte* 1860 *Sumbut; and the 29th Zekaad* 1217 *Higerce.*

Preamble.

TO *relieve the courts, as far as it may be practicable, from the trial of petty suits; to afford the parties an opportunity of obtaining a speedy adjustment of them, without subjecting themselves or their witnesses to the inconvenience and expenses attending a long absence from their homes; and to expedite the decision of causes of every description, the following rules have been enacted.*

Commissions to be granted to natives to try suits not exceeding fifty sicca rupees.

II. Commissions shall be granted to Mahomedans and Hindoos in the several zillahs, *to try and determine suits for sums of money, or personal property, not exceeding in amount or value fifty sicca rupees.*

Commissioners to be nominated by the judges, and approved by the Sudder Dewanny Adawlut.

III. First. *The commissioners are to be nominated by the judges of the* zillahs, *and approved by the Sudder Dewanny Adawlut; but no person shall be allowed to act as commissioner, until the previous sanction of that court to his nomination shall have been obtained.*

Commissioners to receive sunnuds *under the seal and signature of the judge.*

Second. *The commissioners shall receive* sunnuds *of appointment, under the seal and signature of the judge of the* zillah *court under which they may act.*

Commissioners not to be removed without sufficient cause.

Third. *No commissioner shall be removed from his office, during the period for which his commission may be declared to be in force, without sufficient cause, proved to the satisfaction of the Sudder Dewanny Adawlut.*

Rules for determining the number of zillah *commissioners.*

Fourth. *The number of commissioners to be selected in each* zillah, *where local circumstances will admit, shall be such, that the court may not be under the necessity of obliging a defendant, wherever he may reside, to proceed to a greater distance than five coss, to answer any suit that may be preferred against him.*

From what descriptions of persons the commissioners shall be selected.

Proprietors of land.

Farmers.

Tehsildars and sezawuls.

Fifth. *The commissioners shall be selected from amongst the following descriptions of persons, and the judges are enjoined to nominate those who may be best qualified for the trust, by their character and abilities. Firstly, the principal proprietors of land who have the management of their own estates. Secondly, farmers of land holding farms immediately of Government. Thirdly,* tehsildars *or* sezawuls, *collecting the revenue from*

* The whole of this regulation is rescinded by Section 2, Regulation XXIII. 1814.

Managers of estates of disqualified landholders.

lands held khas, *or small estates, whether let in farm or held* khas. *Fourthly, managers appointed by the court of wards to the care of estates belonging to disqualified proprietors. Fifthly, under-farmers, or officers of credit and responsibility, entrusted with the collection of the rents and revenues in estates (whether the public revenue assessed thereon be collected and paid to Government by the proprietor, or by a farmer, or by a manager on the part of the court of wards, or a* tehsildar, *or* sezawul) *which may be considered too extensive for the proprietor, farmer, manager* tehsildar, *or* sezawul, *to determine with promptness all the suits that might come before him. Sixthly, creditable merchants, traders, and shopkeepers, or other persons of property and acknowledged character, residing in towns,* bazars, *or other places of sufficient extent, to require the appointment of a separate commissioner therein, for the determination of suits. Seventhly,* altumgahdars *and* jaghiredars, *possessing extensive* altumgahs *or* jaghires, *or the persons appointed by them to manage their* altumgahs or jaghires. *Eighthly, the* cauzy *of the town or place in which each of the* zillah *courts is established, shall be a commissioner for the* zillah *in virtue of his office. These* cauzies, *respectively, are to decide the suits that may be referred to them, at the* cutcherree *or court-house of the judge; where they are to attend for that purpose as often as he may deem it necessary. If any of these* cauzies *shall be deemed by the judges unqualified in any respect for the duties prescribed to them, they are to inform the Sudder Dewanny Adawlut, and recommend competent persons to succeed to their offices.*

Creditable merchants &c. in the principal towns, bazars, &c.

Altumgahdars and jaghiredars.

Cauzies of the places at which the zillah courts are established.

Rules respecting the duration of the commissions of the zillah commissioners.

Sixth. *The commissions of proprietors of land, are to be in force no longer than they may have the management, and are responsible to Government for the public revenue assessed on their respective estates. The commissions of farmers of land, holding farms immediately of Government,* tehsildars, sezawuls, *managers, under-farmers, or revenue officers in large estates, are to expire with the leases of the farms; or the offices, in virtue of which they may receive their commissions. The commissions of the commissioners in the large towns and* bazars, *shall remain in force whilst their general residence may be within the limits of such place, and no longer. The commissions of* altumgahdars, *and* jaghiredars, *shall cease on the resumption of their* altumgahs *or* jaghires; *and those of the managers, of their* altumgahs *and* jaghires, *on their removal from their employment. The commissions of the* cauzies *shall remain in force whilst they hold their offices as such, and no longer.*

Sudder Dewanny Adawlut may dispense with the rules in the preceding clause.

Seventh. *The Sudder Dewanny Adawlut however may, for special reasons, dispense with the rules contained in the preceding clause regarding the duration of commissions, in any cases in which it may appear to them advisable.*

Zillah commissioners of the description herein mentioned, to act in the distinct capacities of referees, and arbitrators.

Eighth. *Commissioners being proprietors of land, farmers of land, holding farms immediately of Government,* tehsildars, sezawuls, *managers, under-farmers, officers of credit and responsibility; or* altumgahdars, *and* jaghiredars, *shall act in the two following capacities. First, referees* (ameens), *in which capacity they are to hear and determine such suits as may be referred to them by the court of* adawlut. *Secondly, arbitrators* (salisan), *in which capacity they are to hear and determine such suits as persons, wherever residing, may voluntarily submit to their decision by arbitration bonds.*

Other commissioners to act as referees and arbitrators only. Exception.

Ninth. *The* cauzies *of the stations at which the* zillah *courts are established, and the commissioners in the large towns, and* bazars, *are to exercise the functions of referees and arbitrators only. The Sudder Dewanny Adawlut may however, in instances in which they may deem it advisable, empower such* cauzies *and commissioners to act as* munsiffs *also; specifying in their commission the limits of their jurisdiction, and the descriptions of persons over whom their authority is to extend.*

Form of the commissions to be granted to the commissioners.

IV. The judges of the zillahs *are to grant commissions* (sunnuds) *under their seals and signatures, to the persons who may be appointed commissioners, in the following form:—*

"*I, A. B. judge of the court of* adawlut *of the* zillah *of* ———, *by virtue of the powers vested in me by Regulation XVI.* 1803, *appoint you* ——— *commissioner, with the powers of a referee* (ameen) *and arbitrator* (salis), *for trying and deciding suits for sums of money or personal property, not exceeding fifty sicca rupees; which may be*

referred to you by the court in your capacity of referee (ameen) *; or that may be submitted to you by the parties by arbitration bonds in your capacity of arbitrator* (salis) *; against any individual coming within the description of the persons subject to your jurisdiction, as described in clause eighth, Section 3, of the above-mentioned regulation. You are to fix up this commission in the room or place in which you may try and decide the suits that may come before you, in either of the capacities above mentioned ; and are not on any account to try or decide any suit without so fixing up this commission, or a counterpart or copy of it, under the seal and signature of the judge of the* zillah. *You are to try and decide all such suits, and to exercise the authority vested in you agreeably to the rules prescribed in the said regulation, or such other regulations as may be hereafter passed by the Governor General in Council. You are to exercise the powers of commissioner herein vested in you, (if the commissioner be a* cauzy *) so long only as you may hold the office of* cauzy *of* ———— *; or, (if the commissioner be a proprietor of land) so long only as you may be the proprietor of the estate of* ————, *and pay the revenue assessed thereon to Government ; or, (if the commissioner be a farmer of land holding a farm immediately of Government,) so long only as you may hold the farm of* ———— *; or, (if the commissioner be a* tehsildar, *or* sezawul, *or the manager of the estate of a disqualified landholder,) so long only as you may hold the office of* tehsildar *or manager of* ———— *; or, (if the commissioner be an under-farmer, or an officer, entrusted with the collection of the rent and revenues of any estate or land,) so long only as you may hold the farm or employment of* ———— *; or, (if the commissioner be an* altumgahdar, jaghiredar, *or a person vested with the management of an* altumgah, *or* jaghire ;*) so long as you may hold the* altumgah, *or* jaghire, *or be intrusted with the management of the* altumgah *or* jaghire *of*————."

Oath to be taken by the commissioner.

V. First. *Every commissioner, previous to entering upon the execution of the duties of his office, shall take and subscribe the following oath, before the judge of the* zillah *court, in which he may be appointed to officiate, or any person whom he may commission to administer to it :*

" I, A. B. (designation of the commissioner, as proprietor of————, *or farmer of* ————, *&c.) appointed commissioner for trying and determining civil suits for sums of money, or personal property, not exceeding in amount or value fifty sicca rupees, solemnly swear, that I will impartially determine the suits that may come before me for decision in my capacity of referee* (ameen), *arbitrator* (salis), *according to the best of my abilities and judgment ; and that I will not, directly or indirectly, receive, or knowingly allow any other person to receive, any money, effects, or property, on account of any suit that may come before me for decision ; and that I will in all respects truly and faithfully execute the trust reposed in me.*

Declaration to be subscribed by commissioners who may be exempted from taking oaths.

Second. *If any person who may be appointed commissioner, shall object to taking the oath, and he shall come within the description of the persons exempted from taking oaths by the regulations, on account of their rank or cast, the judge is empowered to exempt him from taking the oath, and to cause him to subscribe a written declaration to the same effect.*

Commissioners not to officiate until sworn, or have subscribed the declaration.

Third. *No person shall be allowed to officiate as commissioner until he has taken the oath, or subscribed the declaration above directed ; and the oaths and declarations so subscribed, are to be deposited amongst the records of the courts of* adawlut.

Commissioners liable to prosecution for corruption, or oppressive and unwarranted acts.

Punishment on conviction.

Not liable to prosecution for errors or want of form.

VI. *Commissioners shall be liable to prosecution in the court of* adawlut, *for corruption in the discharge of their trust, and for any oppressive and unwarranted act of authority ; and upon proof of the charge to the satisfaction of the judge, he shall in the first mentioned case, adjudge the offender to pay the prosecutor three times the amount or value of the money or property corruptly received, with all costs of suit ; and in the second, award such damages and costs to the party injured, as appear to him equitable. But no commissioner shall be liable to be prosecuted for want of form, or for error in his proceedings or judgment ; nor shall any process whatever be issued against a commissioner, who may be charged with corruption, or any oppressive and unwarranted act of authority,*

rity, unless the judge shall be previously satisfied by sufficient evidence, that there is probable cause to believe that the charge is well founded.

Rules respecting the reference of suits to the commissioners in their capacity of ameens.

VII. First *The following are the rules prescribed respecting suits referrible to the commissioners, in their capacity of referees or* ameens.

Rules to be observed, by the judge in referring suits.

Second. *Suits for sums of money, or personal property, not exceeding fifty sicca rupees in the amount or value, that may be preferred to any* zillah *court, and which the judge may not deem it proper to try himself, or cause to be tried by his register, shall be referred by him, to one, or two, or more commissioners, nearest to whose place of abode the defendant may reside; unless for special reasons, the judge shall deem it proper to refer the suit to any other commissioner, or to any two or more commissioners.*

Fee of four annas to be paid to the authorized vakeel *of the plaintiff.*

Third. *The authorized* vakeel *of the plaintiff (if he shall have entertained a* vakeel*), who may act for him at the time the order of reference may be issued, shall receive from the plaintiff four annas, as a fee for obtaining the order of reference to the commissioner.*

What the order for reference is to contain, and by what papers it is to be accompanied

Order to be signed by the judge.

Fourth. *The order for reference of the cause shall bear the seal of the court, and the signature of the judge, and shall specify the number of the cause, as it stands on the register of the court, the names of the parties, the amount or value of the money or property sued for, the date of the reference according to the English era, with the corresponding date of the era observed in the district, the date by which the plaintiff and defendant, in person or by* vakeel*, and also any witnesses of any of the parties, if any witnesses shall have been named, are to appear before the commissioner; and shall be accompanied by a copy of the petition of complaint, and by such original exhibits as may have been filed in the cause.*

Judge may authorize the register to sign the other process.

The judges, after signing the order for referring a cause to any native commissioner, may authorize the register to sign any other process in causes so referred.

No person to plead, or act as a vakeel *before any native commissioner (not being a head commissioner) unless he be a relation, servant, or dependant of the person for whom he is appointed to act; or unless he shall have received a* sunnud *under the following conditions.*

Zillah judges authorized to appoint vakeels*, if requisite, for the pleading of causes before the native commissioners within their jurisdictions; and to grant them* sunnuds *for such appointments; to be returned as long as necessary, on condition of good behaviour.*

Vakeels so appointed to be sworn; and liable to prosecution for the breaches of trust, fraud, or misconduct.

Not to be removed without proof of such misconduct, or incapacity, or profligacy, to the satisfaction of the zillah *judge.*

Or unless the judge consider it unnecessary or inexpedient to continue the number of vakeels *so appointed.*

What fees to be received by the vakeels *so appointed.*

To be specified in their vukalutnamahs*;*

And may be included in the commissioner's judgment with other costs of suit.

Fifth. *No person shall be allowed to plead, or act, as a* vakeel *before any native commissioner, whether officiating as* munsiff*, referee, or arbitrator, (not being a head native commissioner,) unless he be a relation, servant, or dependant, of the person for whom he may be appointed to act; or unless he shall have received a* sunnud *from the judge of the* zillah *in which he may be employed, under the following conditions. Firstly, If in any instance, it appear necessary to the judge of the* zillah *courts, that* vakeels *be appointed to attend the pleading of causes before any of the native commissioners (not being head commissioners) within their respective jurisdictions, they are authorized to appoint a sufficient number of persons of good character, and duly qualified, to act as* vakeels*, in the* cutcherrees *of the commissioners, where they may be required; and to grant them* sunnuds *under their official seals and signatures, declaring them entitled to retain such appointment, so long as the same may be necessary, on condition of their good behaviour. Secondly, The* vakeels *so appointed shall be sworn to a faithful discharge of their duties; and shall be liable to prosecution in the* zillah *courts, for all breaches of trust, fraud, or misconduct, in the pleading or management of suits committed to them, or with respect to any act done by them in their capacity of* vakeels*. They shall not however be removed from their offices without proof of such misconduct, or of incapacity, or of gross profligacy, or misbehaviour in their private conduct, to the satisfaction of the judge of the* zillah *in which they may have been appointed; or unless the judge shall consider it unnecessary or inexpedient in any instance, to continue the number of* vakeels *appointed; in which case, he is at all times authorized to recal and cancel the* sunnuds *granted to them. Thirdly, The* vakeels *who may be appointed under this section, are left to settle with their constituents, the fees to be paid to them for the pleading of causes, and for all other acts that may be performed by them; and nothing in this regulation shall entitle any* vakeel*, so appointed, to demand any fee or compensation beyond what may have been previously adjusted, and voluntarily agreed to by his constituent, or in his behalf. The fees so agreed to shall be specified in the* vukalutnamah *by which the* vakeel *is empowered to act; and the commissioner may include the same, or any part thereof, in his judgment against the party cast, if it appear to him equitable so to do; as provided with respect to other costs of suit by clause twelfth, of this section. Fourthly, All native commissioners appointed to act as* munsiffs*, referees, or arbitrators, are to be careful in*

Commissioners not to allow any other persons than

not allowing any persons to frequent, or act in their respective cutcherries *as* vakeels, *who may not be relations, servants, or dependants of the parties in causes before them; or may not have received* sunnuds *to act as* vakeels *from the judge of the* zillah *in which they may be employed. Any breach of this rule, proved to the satisfaction of the Sudder Dewanny Adawlut, will render the commissioner infringing the same, liable to immediate dismission from office, besides such fine to Government as the case may appear to require.*

those specified to frequent, or act in their cutcherries *as* vakeels.

Penalty for any breach of this rule.

Sixth. *The court is to cause the same security to be taken from the defendant to appear in person, or by* vakeel, *before the commissioner by the limited time, as he would be required to give for his appearance, were it to be tried before the court. But it shall be competent to commissioners to summon and take personal security from defendants, in like manner as* munsiffs *are so empowered under Section IX. when the judge may deem the same more convenient than the issue of process.*

Usual security to be taken from defendants in causes to be tried.

Commissioner to have the same power as given to munsiffs *by Section 9, in respect to personal security from defendants.*

Seventh. *If a plaintiff shall not appear before the commissioner in person, or by a* vakeel *duly authorized, by the limited time, the commissioner shall dismiss the claim.*

Claim to be dismissed on plaintiff's not appearing.

Eighth. *If a defendant shall not so appear by the prescribed time, the commissioner shall proceed to try the cause* ex parte.

Cause to be tried ex parte *on defendant's not appearing.*

Ninth. *In the event, however, of the dismission of the suit under clause seventh, or of its being tried* ex parte *under clause eighth, the judge in the first case may order the register, or the commissioner, to try the merits, or try them himself, and in the second, direct the cause to be tried* de novo, *either by the register, or by the commissioner, or try it himself; provided the plaintiff in the former case, and the defendant in the latter, shall shew to him satisfactory cause for not having appeared before the commissioner by the prescribed time. The judge is further authorized, in all cases where a suit tried in the first instance by a native commissioner, may appear to have been insufficiently investigated, and to require a further examination of evidence, or a trial* de novo, *either to refer such cause back to the commissioner by whom it was originally tried, or to any other commissioner competent to try the same, under the regulations; or to his register, with instructions to take and transmit the further evidence required; or, after taking further evidence, to pass a new decision in the cause; or to try and determine the cause* de novo, *subject in either of the two latter cases, to a further appeal to the judge, against such second decision, without any additional charge for the institution fee, if this fee shall have been already paid upon the original appeal.*

Discretionary power vested in the judge in the cases specified in the two preceding clauses.

In what manner the judge may proceed, when a suit tried by a native commissioner shall appear to have been insufficiently investigated; and to require a further examination of evidence, or a trial de novo.

Tenth. *If the plaintiff or defendant shall be desirous of summoning any witnesses to appear before the commissioner, and the witnesses shall not attend at the requisition of the parties, the court, on application from the commissioner, or either of the parties, or their* vakeels, *shall cause them to appear before the commissioner, or direct their depositions to be taken before the court, or any commissioner near to whom they may reside. Commissioners, whether acting as* munsiffs, *or as referees, may order any persons declared subject to their jurisdiction in that capacity to attend as witnesses; and in the event of their not obeying the summons, to attach any personal property belonging to them, not exceeding the amount or value of the money or property sued for, until they appear as required.*

How the depositions of witnesses in causes referred to the commissioners are to be procured.

Commissioners may enforce attendance of witnesses.

Eleventh. *The commissioners are to try the suits referred to them, by hearing the pleadings of the parties, examining their documents, and taking the depositions of the witnesses, in the presence of the parties, or their* vakeels *duly constituted; and in all other respects, they are to consider the principles laid down in the regulations prescribed to the* zillah *courts, for trying and deciding suits, as the general rule for their guidance; as far as circumstances may admit, and as may be consistent with the speedy determination of the suits.*

How the commissioners are to conduct the trial of the suits.

Twelfth. *The commissioner is to decree such costs and damages against the party cast, as may appear to him equitable; and if any claim shall appear to him litigious and vexatious, he is invariably to decree suitable costs and damages against the plaintiff.*

Costs and damages to be decreed against the party cast.

Thirteenth. *If either of the parties, or their* vakeels, *or the witnesses in any suit, shall be guilty of disrespectful behaviour to a commissioner, whilst in attendance upon him for the*

Commissioners may impose fines for contempts, or refusing to give evidence.

the trial of the suit; or if any witness, duly summoned, shall refuse to give his testimony; the commissioner is empowered to impose such fine on the party, vakeel, *or witness, so offending, as may appear to him proper, on a consideration of the case, and the situation and circumstances in life of the offender; and the fine shall be levied in the same manner as decrees of the commissioners are hereafter directed to be enforced.*

Commissioners to deliver copies of their decisions to the plaintiff and defendant, or their vakeels.

Fourteenth. *The commissioners are to deliver a copy of their decisions to the plaintiff, and to the defendant, or their respective* vakeels, *within three days after the day on which the decision may be passed. If the plaintiff, or defendant, or their respective* vakeels, *shall omit to attend to receive a copy of the decision within the prescribed time, or shall refuse to take a copy of it when tendered, the commissioner shall endorse a note of such refusal or omission, on the back of the copy of the decision which he is hereafter required to forward to the court.*

No cause to be tried by a commissioner wherein he or servants may be interested.

Fifteenth. *No cause shall be referred to, or tried by a commissioner, in which he or any of his immediate servants, may be a party, or in any wise interested.*

Commissioners to try the suits themselves.

Sixteenth. *The commissioners are to try and determine all suits themselves, and are not to allow their officers, servants, or dependants, or any other persons to interfere therein.*

Rules respecting commissioners in their capacity of arbitrators.

VIII. First. *The following rules are prescribed to commissioners in their capacity of arbitrators (salisut).*

All persons may submit suits to arbitration.

Second. *Persons, wherever they may reside, are at liberty to refer suits to any commissioner, without any previous application to the court, upon executing and delivering to him any arbitration bond, under their signatures, attested by two credible witnesses, appointing him arbitrator in the cause, and agreeing to abide by his decision, and to make it a decree of the court.*

Decisions not to be set aside but for corruption or partiality.

Third. *Decisions passed by the commissioners in their capacity of arbitrators, shall not be set aside, or altered by the court, but for corruption or partiality, proved to the full satisfaction of the court by the oaths of two credible witnesses.*

How the commissioners are to proceed, in the event of the parties not attending.

Rule for the conduct of the judge in such cases.

Fourth. *If the parties, after having executed the arbitration bonds, shall not appear before the commissioner at such time or times as he may prescribe, he shall proceed as directed with regard to the suits specified in clauses seventh and eighth, Section 7; and the discretionary powers vested in the judge in clause ninth of that section, are declared to extend to the suits that may be dismissed, or tried* ex parte *by the commissioners under this clause.*

Rules in the clauses herein mentioned of Section 7, applicable to suits submitted to the commissioners in their capacity of arbitrators.

Fifth. *The rules contained in clauses fifth, tenth, eleventh, thirteenth, fourteenth, and sixteenth, of Section 7, regarding suits referred to the commissioners in their capacity of referees, are to be considered applicable to suits submitted to them in their capacity of arbitrators.*

This regulation not to supersede Section 3, Regulation XXI. 1803.

Sixth. *No part of this regulation is to be construed to prevent the judges appointing any commissioner, arbitrator in the causes specified in Section 3, Regulation XXI. 1803.*

Rules applicable to suits referred to the commissioners as munsiffs.

IX. First. *The following rules are prescribed respecting suits referrible to commissioners, in their capacity of* munsiff.

Commissioners how to procure the appearance of the defendant, and to proceed in case of his not appearing when summoned.

Second. *When a suit is preferred to a commissioner in his capacity of* munsiff, *against an individual subject to his jurisdiction in that capacity, he shall require the defendant to appear and answer to the complaint on a certain day, by a writing to that effect, which shall also specify the nature of the claim, and require the defendant to give personal security for his appearance. If the defendant shall refuse to give security, the commissioner is empowered to attach any personal property belonging to him, not exceeding the amount or value of the money or thing sued for, until he shall give the required security; and in the event of his not giving security before the decision of the suit, and of the decree being passed against him, to hold the property in attachment, and to deliver it to the officer of the court to be sold in satisfaction of the decree, unless the defendant shall previously discharge the amount of it.*

Third. *But security shall not be required for the appearance of the defendant in any suit instituted before a native commissioner, for money or property, not exceeding in amount or value the sum of ten sicca rupees; unless the commissioner shall receive certain information, to be recorded in that case on his proceedings, that the defendant is about to abscond, on proof of which, he is authorized to require personal security, and, in the event of its not being given, to attach any property belonging to the defendant, not exceeding the amount or value sued for, in conformity to the preceding clause.*

Security not to be required in small causes, unless it appears that the defendant is about to abscond.

Fourth. *If any commissioner, whether acting as* munsiff, *referee, or arbitrator, shall require the evidence of a person not subject to his jurisdiction, as specified in the two preceding clauses, and such person shall not attend at the requisition of the parties, or on notice given him by the commissioner; application to cause his attendance, or his deposition to be taken, must be made to the* zillah *court by the commissioner, or by the party desiring the evidence of such person, or his* vakeel, *in conformity to clause tenth, Section 7.*

Commissioners of all descriptions how to obtain the evidence of persons not subject to their jurisdiction.

Fifth. *But the commissioners in their capacity of* munsiffs *shall on no account summon any woman to appear before them, either as a party or witness in a cause, if her rank, or cast, shall be such as to render it improper, according to the customs and usages of the country, to require her to appear in public. The evidence of such women, when necessary, is to be taken in the mode prescribed in Section 7, Regulation III.* 1803.

Women of rank not to be summoned.

X. *The rules contained in clauses fifth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth, of Section 7, regarding suits referred to the commissioners in their capacity of referees, are to be considered equally applicable to suits which may come before them in their capacity of* munsiffs.

Rules in the clauses herein mentioned of Section VII, to be considered applicable to suits coming before the commissioners in their capacity of munsiffs.

XI. *No commissioner, either in his capacity of referee, arbitrator, or* munsiff, *shall confine a party,* vakeel, *or witness, in any suit which may come before him, or inflict on them any punishment whatever, excepting imposing fines on parties,* vakeels, *or witnesses, for disrespectful behaviour, and on the latter refusing to give their testimony, as above authorized.*

Commissioners prohibited from inflicting punishment.

XII. *The decisions passed by the commissioners in their capacities of referees, arbitrators, or* munsiffs, *shall be enforced by the court of* adawlut; *and no commissioner, in either of those capacities, shall enforce his own decision in any case whatever; and any commissioner who shall issue any process, or use any coercive means for enforcing his own decision, shall, upon conviction of the act before the court of* adawlut *of the* zillah *under which he may officiate, be adjudged to pay to the person against whom such process or coercive means may be issued or used, a sum equal to twice the amount of the decree, with all costs that may be incurred by him in carrying on the prosecution in the court of* adawlut.

Commissioners not to enforce their own decisions.

Penalty for breach of this rule.

XIII. *To enable the* zillah *courts to enforce the decisions that may be passed by the commissioners in their capacity of referees, arbitrators, or* munsiffs, *the commissioners shall, on the fifth of every month, transmit to the judge the three following reports of the suits decided by them in the preceding month. These reports are invariably to be accompanied by all the original papers and documents in each cause, and the* razeenamahs *in those causes in which the parties cast may have abided by and satisfied the decisions, that they may be deposited amongst the records of the court, and be referred to in the event of an appeal being lodged from any of the decisions. Upon the receipt of these reports, the court shall enforce the decisions which may not have been satisfied, unless appealed against within the time hereafter limited.*

Monthly reports to be transmitted by the commissioners to the judge, to enable him to enforce their decisions.

REPORT

REPORT of causes decided by A. B. Proprietor of ——— (or other designation) commissioner, in his capacity of referee (ameen,) *in the month of ——— English era, corresponding with the ——— era.*

Number of the cause on the register of the court.	*Names of the parties.*	*Amount or value of the money or property sued for.*	*Decree.*	*Date of reference according to the English and local era.*	*Date of the decree.*
200.	*Ram Doss,* versus *Sheeb Chund.*	*Forty rupees on bond with interest.*	*Decreed, forty rupees principal and ten rupees interest, and five rupees costs to plaintiff.*	*10th Jan. or*	*1st.*
400.	*Mohummed Aukil,* versus *Ramzuan.*	*Ten rupees balance of rent of land.*	*Dismissed, with one rupee costs to defendant, the claim not being established.*	*11th Jan. or*	*5th.*
450.	*Ram Chund,* versus *Netai.*	*Twenty-four rupees, price of two bullocks.*	*Dismissed, parties having executed a* razeenamah.	*12th Jan. or*	*6th.*

REPORT of causes decided by A. B. proprietor of ——— (or other designation) commissioner, in his capacity of arbitrator (salis), *in the month of ——— English era, corresponding with the ——— era.*

Names of the parties.	*Substance of the cause.*	*Date of the arbitration bonds of the parties.*	*Decision*	*Date of the decision.*
Mohummud Aukil, versus *Ram Churn.*	*Twenty-four rupees, balance of an account of rent of lands.*	20th.	*Awarded twenty-two rupees to plaintiff.*	10th.

REPORT of causes decided by A. B. proprietor of ——— (or other designation of the commissioner) in his capacity of munsiff, *in the month of ——— English era, corresponding with the ——— era.*

Names of the parties.	*Substance of the suit.*	*The decision.*	*Date on which the suit was preferred.*	*Date of decision.*
Ram Churn, versus *Radanaut.*	*Twenty rupees, on bond with interest.*	*Decreed twenty rupees principal, in favor of the plaintiff, and five rupees interest, and one rupee costs; total twenty-six rupees.*	1st.	10th.

Decisions of commissioners to be inserted in the monthly abstract register of causes decided.

XIV. *The decisions passed by the commissioners in their capacity of referees, are to be brought on the monthly abstract register of causes decided, which the courts are required to transmit to the provincial court of appeal, and the Sudder Dewanny Adawlut by Section* 10, *Regulation XIII.* 1803. *The causes which may be decided by the commissioners in their capacity of arbitrators and* munsiffs, *shall also be brought on the monthly abstract register.*

Quarterly reports of causes undecided to be sent to the commissioners.

XV. *The commissioners shall likewise be required to transmit on the last day of the third, sixth, ninth, and twelfth month of the Fusily year, (according to the era current in the province,) reports of the causes depending before them, in their respective capacities of referees, arbitrators, and* munsiffs, *drawn out in the following form:*

REPORT of causes before A B. proprietor of ——— (or other designation of the commissioner) in his capacity of referee, remaining undecided on the ———.

Number of the cause on the register of the court.	*Names of the parties*	*Substance of the suit.*	*Date of reference.*	*Remarks, explanatory of the cause of the suit not having been decided.*
300	*Ram Churn, versus Gunga Bishun.*	*Ten rupees, on bond with interest.*	*10th Jan. 180—, or*	

REPORT of causes before A. B. proprietor of ——— (or other designation of the commissioner,) in his capacity of arbitrator, on the ———

Names of the parties	*Substance of the suit.*	*Date of the execution of the arbitration bonds.*	*Remarks, explanatory of the cause of the suit remaining undecided.*
Bishenaut versus Akber Ally.	*Thirty rupees, balance of accounts.*	*10th.*	

REPORT of causes before A. B. proprietor of ———(or other designation of the commissioner) in his capacity of munsiff, *remaining undecided on the ———.*

Names of the parties.	*Substance of the suit.*	*Date on which it was preferred*	*Remarks, explanatory of the cause of the suit remaining undecided.*
Peer Mahomed, *versus* Ramdulloll.	Forty rupees on bond.	14th.	

By what conveyance the commissioners are to transmit their monthly and quarterly reports.

XVI. The required monthly and quarterly reports, shall be enclosed in a cover, addressed to the judge, and sealed with the seal of the commissioner. The packet shall be forwarded to the judge, either by the public dawk, the officers of which are hereby required to receive and convey such packets free of postage, or by a servant of the commissioner, or the commissioner may deliver it to the nearest police darogah, *who shall give a receipt for it, and convey it to the judge.*

Causes how to be distinguished in the judge's reports.

XVII. The judges of the zillahs, *are to distinguish in their monthly abstract register of causes decided, the suits which may have been determined by the commissioners; and in their half-yearly reports of causes undecided, they are to distinguish the causes depending before the commissioners in their capacity of referees.*

An appeal to lie to the judge for all decisions passed by the commissioners.

XVIII. Any person dissatisfied with the decision of a commissioner, either in his capacity of referee, *arbitrator, or* munsiff, *shall be at liberty to appeal from it to the judge of the court of* adawlut *of the* zillah *under which the commissioner may officiate; provided, the petition of appeal be presented within thirty days after the date of the decision, a copy of which the appellant is required to present with the petition of appeal. A discretionary power however is vested in the judge, of admitting appeals from decisions of the commissioners, although the petitions may be presented after the prescribed period; if the appellant shall shew satisfactory cause to him for not having presented the petition within the limited time.*

Discretionary power vested in the judge.

Petitions of appeal to be presented to the court of adawlut.

XIX. All petitions of appeal, from decisions of the commissioners, are to be presented to the court of adawlut *of the* zillah, *under which the commissioners may officiate; and the commissioners are prohibited from receiving any petitions of appeal from their own decision.*

Petitions of appeal to be presented by the appellant in

XX. *All petitions of appeal from decisions of the commissioners, are to be presented by the appellant in person, or one of the authorized* vakeels *of the court; and if the appeal*

person, or by an authorised vakeel.

peal shall be admitted, and the appellant and respondent shall not plead their cause in person, their respective vakeels are to be allowed the same fees as in suits tried before the judge, as prescribed in Regulation X. 1803. If a petition of appeal, so presented through an authorized vakeel, shall be rejected, the vakeel shall be entitled to a fee of four annas.

Fees to be allowed to the authorized vakeel.

Decisions not to be set aside, but on the merits.

XXI. Decisions of the commissioners are not to be set aside for want of form, or irregularity in their proceedings, but on the merits only.

Cases in which the judge may suspend the execution of the decision.

XXII. In case of an appeal being received from the decision of a commissioner, the judge is empowered to suspend the execution of the decree; provided the party appealing against it, shall give good and sufficient security on or before the next court day on which the appeal may be presented, to perform the decree of the court.

Judges may try any of the suits in person, or by their registers.

XXIII. The zillah courts may, for any reason that may appear to them sufficient, bring up for trial before them, or their registers, any causes that may be depending before the commissioners.

Judges to proceed to select commissioners on the receipt of this regulation.

XXIV. Upon the receipt of this regulation, the judges of the several zillahs are to proceed to select the commissioners, and upon the persons nominated by them being approved by the Sudder Dewanny Adawlut, they shall refer to them for trial, all suits for sums of money or personal property not exceeding fifty sicca rupees in amount or value, which they may not deem it proper to try themselves, or to refer to their registers for trial.

Rules to be observed by the judge on the office of commissioner becoming vacant.

XXV. Upon the death, removal, resignation, or the expiration of the commission of any commissioner, the judge shall, if necessary, immediately nominate another commissioner in his room, for the approbation of the Sudder Dewanny Adawlut; and cause all papers in the causes depending before the late commissioner, to be delivered over to his successor; or otherwise disposed of as circumstances may require

Court of Sudder Dewanny Adawlut may authorise the appointment of a head native commissioner, for the trial of suits for property not exceeding in amount of value the sum of one hundred sicca rupees; or for malguzaree lands, the annual produce of which may not be more than one hundred sicca rupees, or for lakheraj land not producing above ten sicca rupees per annum.

XXVI. First. In addition to the native commissioners, appointed under this regulation, for the trial of suits for personal property not exceeding fifty sicca rupees; the court of Sudder Dewanny Adawlut are empowered to authorize the appointment of a head native commissioner in any zillah wherein such appointment may, on representation from the zillah judge, or otherwise, appear to the court advisable, for the trial of any suits that may be referred to him by the zillah judge, for personal property not exceeding in amount or value one hundred sicca rupees; or for the property or possession of land, the annual produce of which, if malguzaree, may not be above one hundred sicca rupees; or more than ten sicca rupees, if lakheraj; or for any other description of real property, the computed value of which may not exceed one hundred sicca rupees.

Such head commissioners by whom to be nominated and approved; sunnuds of appointment to be issued to them: and not to be removed without sufficient cause proved to the satisfaction of the Sudder Dewanny Adawlut.

Second. Such head commissioners are to be nominated by the judges of the zillahs, and approved by the court of Sudder Dewanny Adawlut; to receive sunnuds of appointment under the seal and signature of the judge, in whose jurisdiction they may be appointed to act; and not to be removed from office without sufficient cause, proved to the satisfaction of the Sudder Dewanny Adawlut; as provided with respect to the other native commissioners by Section 3.

Rules for the selection of persons to be nominated by the zillah judges for the office of head commissioners;

Third. The zillah judges are not restricted to any particular descriptions of persons, in the selection of head commissioners to be nominated by them under this section; but are required to be particularly careful in selecting persons of good character and known ability, as well as duly qualified by their education and past employments, to discharge satisfactorily the trust reposed in them. The judges are in every instance to report to the Sudder Dewanny Adawlut the information they may have obtained on these points, respecting any persons proposed by them to be head native commissioners.

And for report to be made to the Sudder Dewanny Adawlut in such cases.

Oath to be taken by head commissioners.

Fourth. Every head commissioner, previously to entering upon the execution of the duties of his office, shall take and subscribe before the judge of the zillah in which he may be appointed to act, an oath similar to that prescribed in Section 5, and shall be liable to prosecution in the court of adawlut of the zillah, for corruption in discharge of his trust, or for any other oppressive, or unwarranted act in his public capacity, under the provisions contained in Section 6.

Liable to prosecution, for corruption, or any oppressive or unwarranted act in their public capacity, under Section 6.

Fifth. *The head commissioner of each* zillah *is to be denominated* "sudder ameen," *or head* referee *of such* zillah, *and is to hold his* cutcherree *at the station where the* zillah *court is held; in such adjacent place as the judge may direct.*

How to be denominated; and where to hold their cutcherrees.

Sixth. *The judges of the* zillahs, *wherein head* referees *may be appointed, are authorized to refer to them for trial and decision, any suits for money, or other personal property, or for land, or other real property, within the limitations specified in clause first, of this section, which may be depending before themselves, or their registers, or may be instituted in their respective courts, and which the judges in the exercise of the discretion vested in them by Section* 21, *Regulation XII.* 1803, *may not deem it proper to try themselves in the first instance; or to refer to their registers; or to leave to the determination of the latter, although referred to them, in consideration of the number of causes under reference to them, or otherwise.*

What suits may be referred by the judges of the zillah courts to the head commissioners.

Seventh. *The rules prescribed in the fourth, sixth, and several succeeding clauses of Section* 7, *respecting suits referrible to the native commissioners, in their capacities of* referees, *or* ameens, *shall be held applicable to suits referrible to the* sudder ameens, *or head referees.*

Fourth, sixth, and succeeding clauses of Section 7, *applicable to suits referrible to head commissioners.*

Eighth. *Sections* 11, 12, 13, 14, 15, *and* 16, *defining the powers of the native commissioners, the mode of enforcing their decisions, and the reports to be made of causes decided by and depending before them; as well as the provisions contained in Sections* 18, 19, 20, 21. 22, *and* 23, *for appeals from the decisions of the native commissioners therein described, to the* zillah *courts, and for bringing before the judges of those courts, or (on reference from them) before their registers any causes depending before the native commissioners, are also declared applicable to the head native commissioners; and to all suits which may be depending before, or decided by, them.*

Sections 11. *to* 16, *and* 18. *to* 23, *applicable to head commissioners, and the suits referred to them.*

Ninth. *In cases of inheritance of, or succession to, landed property, the Mahomedan law with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to regulate the decision; and the head commissioners in all such cases are to obtain an exposition of the law from the law officers of the* zillah *court; to whom they are to transmit a written abstract of the case for this purpose. Such exposition, however, is not to preclude a further reference to the law officers of the* zillah *court upon such points of law as may arise upon the cause, in the event of its being brought in appeal before the judge, under Section* 18, *and the other provisions in this regulation, relative to appeals. In suits relative to the inheritance of, or succession to, landed property, the head commissioners are to affix in some conspicuous part of their* cutcherrees, *a written notification of the claim preferred, with a requisition to all persons who may have any claim to the property sued for, to prefer the same within a limited period; and their decisions are to include all claimants to the property in question, who, according to the law of the parties, whether Mussulman or Hindoo, have a just and legal title to share therein.*

In cases of inheritance or succession, the Mussulman or Hindoo law to regulate the decision.

How the exposition of the law is to be obtained in such cases.

Such exposition not to preclude a reference to the law officers of the zillah *court, in case of appeal to that court.*

Public notification to be given on all suits for inheritance or succession;

And the decision to include all claimants who have a just title.

Tenth. *All causes referred to a head native commissioner, shall be pleaded by the parties in person, or by an authorized* vakeel, *appointed in conformity to Regulation X.* 1803. *The judges of the several* zillahs *in which there may be head commissioners, are to apply to the court of Sudder Dewanny Adawlut for the appointment of any additional number of pleaders acquired to be attached to their respective courts, for the pleading of causes referred to such commissioners; and a discretion is vested in the judges of the* zillah *courts, to make any allotment of the established pleaders attached to their respective courts, which may be found convenient for the trial and pleading of causes before the head commissioners; as well as before themselves, and their registers. The pleaders employed in such causes shall be entitled to receive the authorized fees thereupon, under the provisions contained in Regulation X.* 1803, *or any other regulation respecting the fees of pleaders in the* zillah *courts. But the fee of four annas, authorized by clause third, Section* 7. *for obtaining the reference of a cause to a native commissioner, shall not be received in addition to the retaining fee of four annas, authorized by Section* 6, *Regulation X.* 1803, *when the same pleader may be employed to obtain the order of reference to a head native commissioner, and to plead the suit before such commissioners under this regulation.*

Causes tried by the head commissioners to be pleaded by the parties, or by authorized vakeels.

Judges to apply for the appointment of any additional pleaders required.

Judges to make such allotment of the pleaders as may be convenient for the pleading of causes.

Fees to be received by pleaders in all causes. Proviso.

Fee of four annas on referring a suit not demandable by the same pleader, in addition to his retaining fee.

Pleadings not to be upon stampt paper; nor exhibit fees to be demanded. Exceptum.

Eleventh. *The pleadings held before the head native commissioners, are not required to be written upon stampt paper; nor will any exhibit fees be payable on exhibits delivered upon the trial before them. But the use of stampt paper, and the payment of the exhibit fee, will be requisite upon the pleadings and exhibits filed on appeals from the decisions of the head native commissioners to the* zillah *courts, in conformity to the regulations in that respect established.*

Sudder Dewanny Adawlut may prescribe any additional rules of form and practice for the head commissioners, and native commissioner in general.

Twelfth. *The court of Sudder Dewanny Adawlut are authorized to prescribe any additional rules of form and practice, which may be found necessary, or expedient, for the guidance of the head native commissioners, or for the guidance of the native commissioners in general, so that the same be not repugnant to any existing regulation.*

Zillah judges to report to the Sudder Dewanny Adawlut when they think it advisable, to appoint a head native commissioner, and to propose a person for the office.

XXVII. On receipt of this regulation, as well as at any future period, the several zillah *judges, who on consideration of the number of depending causes referred or referrible to their registers, may be of opinion that it will be advisable for the more speedy administration of justice, to appoint a head native commissioner at their respective stations, under the provision contained in this regulation, are to report the same to the court of Sudder Dewanny Adawlut; and at the same time to propose a person for the office, in conformity to clause third of the preceding section.*

An establishment of munsiffs *to be prepared by the* zillah *judges, and submitted to the Sudder Dewanny Adawlut.*

XXVIII. The judges of the several zillahs, *on receipt of this regulation, are to prepare and submit to the court of Sudder Dewanny Adawlut, an establishment of* munsiffs *for their respective jurisdictions, under the provisions contained in the following section.*

By whom to be appointed.

Sunnuds of appointment to be issued to them.

XXIX. First. *The native commissioners to be vested with the powers of* munsiff, *in addition to those of referee and arbitrator, shall be nominated by the* zillah *judges, and approved by the court of Sudder Dewanny Adawlut; shall receive* sunnuds *of appointment under the seal and signature of the judge in whose jurisdiction they may be appointed to act; and shall not be removed from office without sufficient cause proved to the satisfaction of the Sudder Dewanny Adawlut; but that court may, at all times, order the recall of any commission, granted under the present regulation, when the continuance of it may appear to them unnecessary or inexpedient, on the report of the judge of the* zillah *in which such commission may have been granted, or on consideration of any other report, or information.*

And not to be removed without cause shown to the satisfaction of the Sudder Dewanny Adawlut.

General power granted to the Sudder Dewanny Adawlut to recall any commission.

Rule for the selection of persons to act as munsiffs.

Second. *The* zillah *judges are not restricted to any particular description of persons in the selection of commissioners to act as* munsiffs, *under this section; but are required to be particularly careful in selecting persons of good character, and sufficient ability, as well as duly qualified by their education and past employments to discharge satisfactorily the trust reposed in them. The judges are in every instance to report to the Sudder Dewanny Adawlut, the information they may have obtained on these points, respecting any person proposed by them to be vested with the powers of* munsiff.

Report to be made to the Sudder Dewanny Adawlut respecting any person proposed as munsiff.

Oath to be taken by munsiffs.

Third. *Every commissioner appointed to act as* munsiff, *previously to entering upon the execution of the duties of his office, shall take and subscribe before the judge of the* zillah *in which he may be appointed to act, the oath prescribed in Section* 5; *and shall be liable to prosecution in the court of* adawlut *of the* zillah *for corruption in the discharge of his trust, or for any other oppressive or unwarranted act in his public capacity, as provided by Section* 6.

Liable to prosecution for corruption, or other oppressive, or unwarranted acts.

Local jurisdiction of munsiffs; *and where their* cutcherrees *shall be held.*

Fourth. *The general local jurisdiction of a* munsiff, *shall be the same with that of the police jurisdiction in which he may be empowered to officiate; and his* cutcherree *shall be held at the principal town,* bazar, *or* gunje *within such jurisdiction, wherever it may be nearly central to the police jurisdiction. Where there may be no town,* bazar, *or* gunje, *in a central part of the jurisdiction, the* zillah *judge shall determine (subject to the approbation of the Sudder Dewanny Adawlut) at what place, within the* munsiff's *jurisdiction, his* cutcherree *shall be held; as may be most convenient for the inhabitants. The judge is also to report to the court of Sudder Dewanny Adawlut, whenever it may appear to him advisable to appoint more than one* munsiff *within a police jurisdiction, or to include more than one police jurisdiction within that of a* munsiff; *and the court of Sudder Dewanny Adawlut are authorized to fix the limits of the* munsiff's *jurisdiction, on consideration of such reports as may appear to them expedient.*

Fifth. *In* zillahs *where the police jurisdictions under the* tehsildars *are of unequal extent, the number and local jurisdiction of the* munsiffs *are to be proposed by the* zillah *judges, and fixed by the court of Sudder Dewanny Adawlut, as may appear to them proper; and consistent with clause fourth, Section* 3, *directing the number of commissioners, where local circumstances will admit, to be such that a defendant may not be obliged to proceed to a greater distance than five coss to answer any suit preferred against him.*

Number and local jurisdiction of munsiffs how to be regulated in particular zillahs.

Sixth. *No* munsiff *shall be appointed within five coss of the station where the* zillah *court is held, unles the* zillah *judge shall for any particular reason, consider it advisable to appoint a* munsiff *within such distance; in which case he is to report the same for the determination of the Sudder Dewanny Adawlut, who are empowered to authorize such appointment, if it appear to them expedient.*

No munsiff *to be stationed within five coss of a* zillah *court, without a special sanction.*

Seventh. *The commissioners who may be vested with the powers of* munsiff, *are empowered to receive, try, and determine all suits preferred to them against any native inhabitant of their respective jurisdictions, for money or other personal property not exceeding in amount of value the sum of fifty sicca rupees: provided the claim be really for money due, or property belonging to the plaintiff: or for the value of such property; and be not for damages on account of alleged personal injuries, or for personal damages of whatever nature; no claim for which shall be heard by any commissioner, without an order of reference to him from the* zillah *court. Any wilful violation of this rule, proved to the satisfaction of the Sudder Dewanny Adawlut, shall subject the commissioner infringing it, to immediate dismission from his office; and to such fine to Government as that court may judge proper to impose upon him, on consideration of all the circumstances of the case.*

What suits are triable by the munsiffs.

Claim for damages not triable without an order from the zillah *court.*

Penalty for a wilful violation of this rule.

Eighth. *Commissioners empowered to act as* munsiffs, *are to try themselves, in a public* cutcherree, *or court-room, the suits cognizable by them under the preceding clause; and are not to allow their officers, servants, or dependants, or any other person to interfere therein. In receiving, trying, and determining suits, they shall be guided by the rules prescribed in Sections* 9, 10, 11, *and* 12, *and by such other provisions in this regulation as have reference to the office of* munsiff. *They shall also be guided by any other regulation having reference to their office, or to the suits declared cognizable by them, and in cases for which no express provision may have been made, in the trial of such suits, they shall observe, as nearly as may be practicable, the rules prescribed for the administration of civil justice in the courts of* adawlut.

All causes to be tried by the munsiffs *in person, and in open court.*

[illegible] be observed in [illegible]rying, and determining suits.

Ninth. *The commissioners appointed to act as* munsiffs *shall also be empowered to act as referees and arbitrators, under Sections* 13, 14, 15, 16, *and* 17, *relative to the powers of causes decided by, and depending before, the native commissioners; as to [illegible] Sections* 18, 19, 20, 21, *and* 22, *respecting appeals from the decisions of such commissioners, and Section* 23, *authorizing the judges of the* zillah *courts to bring before them, or to refer to arbitrators, any causes depending before the native commissioners, shall be considered equally applicable to all suits decided by, or depending before, any commissioner vested with the powers of* munsiff.

[illegible]siffs to be also [illegible]eferees and arbitrators.

[illegible]ections of this regulation declared applicable to suits depending before or decided by munsiffs.

Tenth. *Commissioners who may be empowered to act as* munsiffs, *referees, and arbitrators, shall receive a* sunnud *under the seal and signature of the judge of the* zillah *in which they may be appointed to officiate, in the following form:*

Form of sunnud *to be granted to commissioners empowered to act as* munsiffs, *referees, and arbitrators.*

"*I, A. B. judge of the court of* adawlut *of the* zillah *of* ———— *in virtue of the powers vested in me by Regulation XVI.* 1803, *appoint you* ———— *commissioner, with the powers of* munsiff, *referee, and arbitrator, for trying and deciding suits for money, or other personal property, not exceeding fifty sicca rupees; and not being for damages on account of alleged personal injuries or other personal damages; which may be preferred to you, in your capacity of* munsiff, *against any native inhabitant within the limits of your jurisdiction, as described at the foot of this* sunnud. *Also for trying and deciding all suits for money or other personal property, not exceeding fifty sicca rupees, which may be referred to you in your capacity of referee, from the court of* adawlut *of this* zillah, *or which may be submitted to your arbitration, by the parties, in your capacity of arbitrator. You are to hold your* cutcherree *at* ————, *and are to fix up this commission in some conspicuous*

conspicuous part of the cutcherree, *in which all suits are to be heard and determined by you. You are to try and decide all suits cognizable by you, and to exercise the authority vested in you, agreeably to the rules prescribed in this regulation, and the several regulations herein referred to, or such other regulations as may be hereafter enacted by His Excellency the Governor General in Council, and printed and published in conformity to Regulation I.* 1803. *You are to exercise the powers of commissioners herein vested in you, until your commission shall be recalled by order of the court of Sudder Dewanny Adawlut.*

Managers of joint undivided estates eligible to the office of commissioner.

XXX. Serberahkars, *or managers of joint undivided estates, shall be eligible to the office of commissioner for hearing and determining suits, under this regulation, in the* zillahs *in which the estates they may be appointed to manage are situated.*

A. D. 1805. REGULATION XV.

A REGULATION *for the Appointment of the Mahommedan and Hindoo Law Officers of the Zillah and City Courts, to be Commissioners for the Trial of referred Causes, to the Amount, or Value, of One Hundred Sicca Rupees; and to make further provision for the appointment of Head native Commissioners in the several Zillahs and Cities.*—PASSED *by the Vice-President in Council, on the* 12*th of September* 1805; *corresponding with the* 29*th Bhadoon* 1212 *Bengal era; the* 3*d Assin* 1213 *Fussily; the* 29*th Bhadoon* 1212 *Willaity; the* 4*th Assin* 1862 *Sumbut; and the* 17*th Jumadee-us-Sanee* 1220 *Higeree.*

THE provisions made by Section 26, Regulation XVI. 1803, and Section 9, Regulation XLIX. 1803, for the appointment of a head native commissioner, in any city or [illegible] such appointment may appear advisable, not expressly authorizing the appointment of more than one head commissioner, in the same city, or *zillah*; and it appearing expedient to authorize the appointment of two or more *sudder ameens*, or head referees, to the trial of such suits which may be referred to them by the *zillah* or city judges, under the provisions prescribed in the sections above-mentioned; as well as to appoint the Mahommedan and Hindoo law officers of the *zillah* and city courts to be *sudder ameens* of the [illegible] they are respectively employed; both as such officers must be well qualified to try and determine many descriptions of causes which are instituted in the [illegible] and are declared, in the sections specified, to be referrible to the head native commissioners; and as the salary received from Government by the law officers, with their general respectability of character, and superior knowledge, afford the strongest grounds for confidence that the powers of referee, in such causes as the judges may deem proper to [illegible] will be exercised with integrity and impartiality; the Honorable the [illegible] Council has therefore enacted the following rules, to be in force on their promulgation throughout all the provinces under the immediate government of the presidency of Fort William.

Preamble.

II. The Mahommedan and Hindoo law officers of the *zillah* and city courts of civil judicature shall, by virtue of their offices, be deemed *sudder ameens*, or head referees, of the *zillah* or city, in which they may be respectively employed, for the trial, and decision in the first instance, of any suits which may be referred to them by the *zillah* and city judges, within the limitations prescribed by Section 26, Regulation XVI. 1803, and Section 9, Regulation XLIX. 1803.

Law officers of the *zillah* and city courts to be *sudder ameens* by virtue of their offices.

III. The whole of the provisions contained in Section 26, Regulation XVI. 1803, and Section 9, Regulation XLIX. 1803, as far as the same can be applied to the law officers of the *zillah* and city courts in their capacity of *sudder ameens*, shall be held equally applicable to them, as to the head referees described in those sections. But, under the provision made by the preceding section of the present regulation, it will not be necessary to grant *sunnuds* of appointment to the law officers, in their capacity of *sudder ameen*; as directed

What provisions, in existing regulations, applicable to the law officers, in their capacity of *sudder ameen*.

with respect to the head native commissioners appointed under Section 26, Regulation XVI. 1803, and Section 9, Regulation XLIX. 1803.

What compensation to be allowed them, for causes decided by, or adjusted before them.

IV. The law officers of the *zillah* and city courts, in their capacity of *sudder ameen*, as a compensation for their trouble, and for the expence of such establishment as may be necessary for the discharge of their duty in that capacity, shall be entitled to receive the institution fee, paid in all suits decided by them upon investigation of the merits, or depending before them when adjusted by *razeenamahs* of the parties, in the same manner, and under the same restrictions, as provided with respect to other native commissioners, by clause seventh, Section 4, Regulation XLIII. 1803, and by Section 11, Regulation XLIX. 1803.

Sudder Dewanny Adawlut empowered to appoint two or more *sudder ameens*, in addition to the law officers; whenever it may appear expedient.

V. Whenever it may appear expedient, on consideration of the number of civil causes depending in a *zillah* or city court, that more than one head native commissioner should be appointed in such *zillah*, or city, in addition to the Mahommedan and Hindoo law officers, the court of Sudder Dewanny Adawlut are empowered to authorize the appointment of two more *sudder ameens*, or head referees, for the trial and decision, in the first instance, of any suits which may be referred to them by the *zillah* or city judge, within the limitations prescribed by Section 26, Regulation XVI. 1803, and Section 9, Regulation XLIX. 1803.

What regulations applicable to the *sudder ameens* so appointed.

VI. The whole of the provisions contained in Section 26, Regulation XVI. 1803, and Section 9, Regulation XLIX. 1803, as well as those contained in clause seventh, Section 4, Regulation XLIII. 1803, and Section 11, Regulation XLIX. 1803, shall be considered applicable to the head native commissioners, who may be appointed under the preceding sections of this regulation.

A. D. 1814. REGULATION XXIII.

A REGULATION *for reducing into one Regulation, with Amendments and Modifications, the several Rules which have been passed regarding the Office of Moonsiffs or Native Commissioners, and of Sudder Ameens or Head Commissioners; for modifying and extending their respective Powers in the Trial and Decision of civil Suits; and for authorizing them to discharge certain additional Duties under the Direction of the Zillah and City Judges.*—PASSED *by the Vice-President in Council, on the* 29*th November* 1814; *corresponding with the* 15*th Aughun* 1221 *Bengal era; the* 2*d Aughun* 1222 *Fussily; the* 16*th Aughun* 1222 *Willaity; the* 2*d Aughun* 1871 *Sumbut; and the* 16*th Zeheija* 1229 *Higeree.*

Preamble.

WHEREAS rules have from time to time been enacted for constituting the office of *moonsiffs* or native commissioners, and of *sudder ameens* or head commissioners for the trial and decision of causes of a certain amount or value: and whereas those rules have appeared in some instances to require revision: and whereas it is expedient, with the view of expediting the trial and decision of civil suits, to extend the jurisdiction of the said *moonsiffs* and *sudder ameens*, and to authorize the judges of the *zillah* and city courts to employ them in the execution of certain additional duties: and whereas it will contribute to the public convenience to transfer to the provincial courts the control now exercised by the Sudder Dewanny Adawlut in the appointment and removal of *moonsiffs* and *sudder ameens*, and to reduce into one regulation the whole of the provisions which will be applicable to the office of *moonsiffs* and of *sudder ameens*, the following rules have been passed, to be in force from the 1st of February 1815, throughout the territories immediately dependant on the presidency of Fort William.

Regulations rescinded.

II. Regulation XL. 1793, Regulation XXXI. 1795; Section 5, Regulation XXXVI. 1795; Section 8, Regulation XXXVIII. 1795; clauses first, second, and third, of Section 3, Regulation VI. 1797; Regulation XVIII. 1797; Section 20, Regulation VII. 1800; Regulation XVI. 1803; Section 3, Regulation XLIII. 1803; Sections 9. to 19, inclusive, of Regulation XLIX. 1803; such part of Section 19, Regulation V. 1804, as refers to native commissioners; Section 9, Regulation II. 1806; Section 8, Regulation VIII. 1809; Sections 9. and 10, Regulation XIII. 1810; such parts of clauses first and second, of Section 11, Regulation XIII. 1810, as are applicable to *moonsiffs* and to *sudder ameens*, are hereby rescinded.

Commissions granted to natives as referees and arbitrators, to be cancelled.

III. *First.* On the receipt of this regulation, the *zillah* and city judges shall recal and cancel all commissions which may have been granted to natives, authorizing them, in the capacity of referees and arbitrators only, and not in that of *moonsiffs*, to hear and determine suits for sums of money, or personal property not exceeding fifty sicca rupees in value or amount, and those offices shall be abolished.

Suits depending before them in their capacity of referees to be transferred to the *moonsiffs or sudder ameens*, who will be entitled to the same fee.

Second. Any suits, which may be depending before them in their capacity of referees, shall be transferred, at the discretion of the judge, to any of the *moonsiffs* or *sudder ameens*; and the same fee as would have been payable to the original referee, shall on the decision of the suit be paid to the *moonsiff* or *sudder ameen* to whom it may be transferred.

Third.

on the decision of such suits, as would have been payable to the original referee.

Suits depending before them as arbitrators how to be decided.

Third. Any suits which may be depending before them in their capacity of arbitrators, shall be decided by them under the general rules prescribed in Regulation XVI. 1793, Regulation XV. 1795, Regulation XXI. 1803, and Regulation VI. 1813.

But natives vested with the powers of *moonsiffs* may determine all suits depending before them, whether as *moonsiff*, referee, or arbitrator.

IV. In cases, in which the office of referee and arbitrator is united with that of *moonsiff*, such *moonsiff* is authorized to hear and determine all causes now depending before him, whether in his capacity of *moonsiff*, referee, or arbitrator; but no additional suits shall be referred to him by the judge except in *zillah* Chittagong, under Sections 57, 58, and 59. of this regulation, nor shall he be authorized to admit new cases for arbitration except under the general rules for arbitration prescribed in Regulation XVI. 1793, Regulation XV. 1795, Regulation XXI. 1803, and Regulation VI. 1813.

No additional suits to be referred, except in *zillah* Chittagong

Under what rules causes may in future be received by *moonsiffs* for arbitration.

V. Until new *sunnuds* can be prepared and the arrangements prescribed in the following section can be carried into effect, the persons who now hold the office of *moonsiff* shall be authorized, under the *sunnuds* heretofore granted to them, to exercise the full powers conferred on *moonsiffs* by this regulation.

Until new *sunnuds* can be prepared, *moonsiffs* may exercise the full powers conferred on them by this regulation, under their former *sunnuds*.

VI. *First.* The judges of the several *zillahs* and cities shall on the receipt of this regulation prepare and submit to the provincial court a new establishment of *moonsiffs*, whose local jurisdictions shall be so arranged as to correspond exactly with those of the *thanas* or local police jurisdictions. They shall at the same time report to the provincial court the name of the town or village in each jurisdiction, which may be most centrical, or otherwise most conveniently adapted for the establishment of each *moonsiff's cutcherree*.

New establishment of *moonsiffs*, whose local jurisdictions are to correspond with those of the *thanas*, to be submitted to the provincial courts by the *zillah* and city judge.

Second. The jurisdiction of the *moonsiffs* shall have the same local denomination as that of the corresponding police jurisdiction.

And places to be fixed upon for the establishment of their *cutcherrees*.

Jurisdictions of *moonsiffs* to have the same local denomination as the corresponding police jurisdictions.

Third. If the number of persons now holding the office of *moonsiffs* in any *zillah* or city should exceed that of the police jurisdictions, the judge shall select from them those individuals, of whose capacity and integrity he entertains the most favourable opinion. But if the number of *moonsiffs* should be less than that of the police jurisdictions, the judge shall select such an additional number of persons for the office of *moonsiff* as may be necessary; in both instances he shall report the grounds of his selection to the provincial court, with reference to the provisions of Section 8. of this regulation.

Measures to be adopted by *zillah* and city judges, when the number of *moonsiffs* now employed shall be greater or smaller than that of the police jurisdictions.

Fourth. When the selection of *moonsiffs* for each *zillah* or city, and the places in which their respective *cutcherrees* are to be held, shall have been approved by the provincial court, the whole of the *sunnuds*, which may have been formerly granted to *moonsiffs*, shall be recalled and cancelled, and new *sunnuds*, drawn up according to the form No. 1. in the appendix to this regulation, shall be furnished to all those whose appointments may be confirmed and sanctioned by the provincial court under the preceding clause.

Former *sunnuds* to be cancelled, and new *sunnuds* to be granted to *moonsiffs*, when the prescribed arrangements shall have been sanctioned by the provincial courts.

Fifth. The offices of those *moonsiffs*, whose appointments under the first part of clause third of this section will be no longer necessary, shall be abolished; and the *zillah* and city judges shall adopt the necessary measures for transferring the papers and proceedings in depending causes to the jurisdictions of those *moonsiffs* to which they may respectively appertain.

Papers and proceedings belonging to the offices of *moonsiffs* which may be abolished, how to be disposed of.

VII. The provincial courts are empowered to include two or more entire police jurisdictions within that of one *moonsiff*, and to abolish any of those offices, whenever local or special circumstances may in their judgment render it expedient: they are further at all times authorized to cause the *cutcherree* of a *moonsiff* to be removed from the town or village in which it may be held to any other town or village within the limits of the same *moonsiff's* jurisdiction, which may appear more convenient.

Discretion vested in provincial courts regarding the local jurisdiction of *moonsiffs*.

VIII. *First.* In the future nomination of individuals for the office of *moonsiff*, the *zillah* and city judges are not restricted to any particular classes or descriptions of persons, provided that they are either of the Hindoo or Mahomedan persuasion, but are required generally to select, in preference to other individuals, such of the *pergunnah* or city *cauzies* as may appear to be duly qualified for the trust.

What persons are to be selected by *zillah* and city judges for the office of *moonsiff*.

Second. The *zillah* and city judges shall communicate to the provincial court such information as they may have obtained regarding the age, capacity, character, education, and past employments of any person whom they may recommend for the office of *moonsiff*,

Their qualifications to be reported to the provincial courts.

and no person shall be authorized to officiate as *moonsiff* without the previous sanction of the provincial court.

No person to officiate as *moonsiff* without the previous sanction of the provincial court.

IX. *First.* Whenever a *zillah* or city judge, shall see cause for the removal of a *moonsiff* on the ground of any misconduct, neglect of duty, incapacity, or other disqualification, the judge shall report the circumstances of the case with his opinion on the subject to the provincial court, who will pass such order on the report as may appear to be proper, or will call for any additional information, or direct any further inquiry, which the nature and circumstances of the case may require.

Mode of proceeding for the removal of *moonsiffs* from office.

Second. Whenever a *moonsiff* may be guilty of extortion, or of any other gross act of misconduct, the judge is authorized to suspend him from his office; but in such instances it shall be the duty of the judge to report the circumstances of the case without delay, for the information and orders of the provincial court.

Judges of *zillahs* and cities authorized in certain cases to suspend *moonsiffs* from their office.

Third. In other cases of misconduct and neglect of duty, which may not be of a nature to require either the suspension or dismissal of a *moonsiff* from his office, the judge is authorized to impose on the *moonsiff* a fine not exceeding twenty rupees in amount, and the order of the judge in such cases shall be final.

Or to fine them as far as 20 rupees.

Fourth. No *moonsiff* shall be removed from his office, unless the provincial court shall be satisfied that there is sufficient cause for his removal.

Moonsiffs not liable to dismission except by the provincial court on sufficient cause.

X. *First.* *Moonsiffs* shall be liable to an action in the civil court for corruption, in the discharge of their trust, or for extortion, or for any oppressive or unwarranted act of authority; and upon proof of the charge to the satisfaction of the judge, he shall cause the offender to pay such damages and costs to party injured as may appear to be equitable.

Moonsiffs may be sued for corruption in the civil courts, and are liable to discretionary costs and damages.

Second. *Moonsiffs* shall also be liable to a criminal prosecution for corruption, extortion, or other misdemeanor committed by them in the discharge of any part of their duty, and on conviction before the court of circuit shall be subject to fine and imprisonment proportionate to the nature and circumstances of the case; but no *moonsiff* shall be liable to be prosecuted for want of form or for error in his proceedings or judgments, nor shall any process be issued against a *moonsiff* who may be charged with corruption, extortion, or any oppressive and unwarranted act of authority, unless the judge shall be previously satisfied by sufficient evidence, that there is reason to believe the charge to be well founded.

Moonsiffs may be prosecuted criminally in certain cases, and are liable to a sentence of fine and imprisonment on conviction.

Process not to be issued against *moonsiffs* without previous inquiry into the charge.

XI. Every person who may in future be appointed to the office of *moonsiff*, will be furnished by the judge with a *sunnud* drawn up according to the form No. 1. of the appendix to this regulation; and previously to entering upon the duties of his office, he shall take and subscribe an oath according to the form prescribed in No. 2. of the appendix. The judge however is empowered, in all cases in which he may deem it expedient, to exempt such *moonsiff* from taking the oath, and to cause him to subscribe a solemn declaration to the same effect.

Persons hereafter appointed to the office of *moonsiff* to be furnished with a *sunnud*, and to take and subscribe an oath or solemn declaration according to prescribed form.

XII. Whenever a *sunnud* may be granted to a *moonsiff* under the preceding section, a copy of it under the official seal and signature of the judge shall also be delivered to him, in order that it may remain permanently affixed in some conspicuous place in his *cutcherree*.

Copy of the *sunnud* to be furnished to *moonsiffs*, and to be affixed in their *cutcherrees*.

XIII. *First.* The persons who may be invested with the powers of *moonsiff* under this regulation, are empowered to receive, try, and determine all suits preferred to them against any native inhabitant of their respective jurisdictions for money or other personal property, not exceeding in amount or value, the sum of sixty-four sicca rupees, provided that the cause of action shall have arisen within the period of one year previously to the institution of the suit, and that the claim include the whole amount of the demand arising from such cause of action; and provided further, that the claim be really for money due, or for personal property, or for the value of such property, and be not for damages on account of alleged personal injuries, or for personal damages of whatever nature.

What suits may be tried by *moonsiffs*.

Second. The *moonsiffs* are prohibited from hearing, trying, or determining any suits, in which they, themselves, or their relatives, or dependants, or the *vakeels*, or other persons employed in their *cutcherrees*, may be parties, or in which a British subject, or a European foreigner, or an American may be a party.

Moonsiffs prohibited from trying suits in which certain classes of persons may be parties.

And from admitting persons to sue as paupers.

Third. They are further prohibited from receiving or trying any suits which persons may desire to prefer to them *in formâ pauperis*.

Suits to be tried by the *moonsiffs* themselves in a public *cutcherree*, and under what rules.

XIV. *Moonsiffs* are themselves to investigate the suits cognizable by them in a public *cutcherree*, or court-room, and are not to allow their officers, servants, or dependants, or any other person to interfere therein. In receiving, trying, and determining suits, they shall be guided by the rules prescribed in the following sections, and in points not expressly provided for in this regulation, they shall observe as nearly as may be practicable the rules prescribed in the regulations for the guidance of the *zillah* and city courts in the trial and decision of civil suits.

What persons may act as *vakeels* in the courts of the *moonsiffs*.

XV. *First.* No person shall be allowed to plead or act as a *vakeel* in the court of any *moonsiff*, unless he be a relative, servant, or dependant of the person for whom he may be appointed to act; or unless he shall have received a *sunnud* of appointment from the *zillah* or city judge.

Zillah and city judges may appoint *vakeels* in the courts of the *moonsiffs*.

Such *vakeels* to receive *sunnuds* in a prescribed form.

Second. If in any instance it appear to be essentially necessary that *vakeels* be appointed to attend the pleading of causes before any of the *moonsiffs*, the *zillah* and city judges are authorized to appoint a sufficient number of persons of good character and duly qualified, and to grant to them *sunnuds* drawn up according to the form No. 3. in the appendix to this regulation. The *zillah* and city judges are enjoined not to exercise the discretion vested in them by this clause of appointing *vakeels* to the *moonsiff's* courts, unless they shall be satisfied of the expediency or necessity of that measure.

And to be sworn to the faithful discharge of their duty: and shall be liable in certain cases to a civil action and criminal prosecution.

And may be removed from their offices by the judge under certain circumstances.

Third. The *vakeels* so appointed shall be sworn to a faithful discharge of their duties, and shall be liable both to a civil action, and a criminal prosecution, for all breaches of trust, fraud, or acts of wilful misconduct, committed by them in their capacity of *vakeels*. They shall not however be removed from their offices without proof to the satisfaction of the judge of misconduct, or of incapacity, or of gross profligacy or misbehaviour, or unless the judge shall consider it inexpedient to continue the number of *vakeels* appointed; in which case he is at all times authorized to recall and cancel the *sunnuds* granted to them.

Vakeels are to settle with their constituents the amount of the fees to be received by them.

Such fees to be specified in the *vakalutnamah*.

Fourth. The *vakeels* who may be appointed under this section are left to settle with their constituents the fees to be paid to them for the pleading of causes, and for all other acts that may be performed by them. The amount of the fees which may be voluntarily agreed upon, shall be specified in the *vakalutnamah*, which shall be written on the prescribed stamp paper, and the *moonsiff* may include the same (or any part thereof which may appear reasonable) in his judgment against the party cast.

Moonsiffs are to prevent unauthorized persons from acting as *vakeels* in their *cutcherrees*.

Fifth. The *moonsiffs* are carefully to prevent persons from acting as *vakeels* in their respective *cutcherrees*, who may not be relatives, servants, or dependants of the parties in causes before them; or may not have received *sunnuds* to act as *vakeels* from the judge of the *zillah* or city in which they may be employed.

Stamp duty to be levied on the institution of suits before *moonsiffs* in lieu of the former institution fee.

XVI. In suits instituted before any *moonsiff* in conformity with Section 13. of this regulation, no institution fee shall be levied from the plaintiff, but the following stampt duties shall be levied in lieu thereof, in conformity with the provisions contained in Regulation I. 1814, viz. if the sum of money or value of personal property claimed shall not exceed sixteen sicca rupees, the plaint or petition shall be written on stampt paper of one rupee. If above sixteen, and not exceeding thirty-two rupees, two rupees. If above thirty-two, and not exceeding sixty-four rupees, (which is the highest sum cognizable in suits before a *moonsiff*;) four rupees.

What matters are required to be stated in the plaint.

XVII. The plaint shall state precisely the grounds of complaint, the time when the cause of action arose, the name and residence of the person or persons complained against, the total sum of money or amount of personal property claimed, and all material circumstances, which may elucidate the transaction, and may tend to bring the matter in dispute to a distinct issue.

The insertion of irrelevant matter and terms of abuse in the plaint to be restrained and discouraged.

XVIII. It shall be the duty of the *moonsiff* to restrain and discourage as much as possible the insertion in the plaint of irrelevant matter, and of terms of abuse and reproach against the character of the defendants or others. The plaint shall be signed and numbered, and dated in the order in which it may be received by the *moonsiff*, and the number of

of the suit, the names of the parties, the date on which the petition is received, the amount claimed, and the subject matter of the suit, shall be carefully entered in a book, to be kept by the *moonsiff* according to the form No. 4, of the appendix; two blank columns shall be left in the book, in the first of which shall be inserted the date of the decision and an abstract of the final order passed in each suit, shewing whether the claim be decreed in whole or in part, or nonsuited, or adjusted by *razeenamah*, or dismissed on investigation of the merits, or otherwise disposed of, and the amount of the costs adjudged against either or both of the parties. In the second blank column shall be inserted, the date on which the copies of the decrees may be furnished or tendered to the parties. With a view to ascertain that the register books are regularly kept in the manner above prescribed, and that depending suits are brought to a hearing according to their order on the file, the *zillah* and city judges are respectively required to inspect them once at least in each year, and for this purpose shall require the several *moonsiffs* to transmit them to the court either during the period of the Dussera or Mohurrum vacation, as may be most convenient.

Plaint to be signed, numbered, and dated.

And to be inserted according to a prescribed form in a book to be kept for that purpose.

XIX. *First.* When the complaint shall have been thus received and entered in the book according to the prescribed form, the *moonsiff* shall cause to be served on the defendant a written notice under his seal and signature, containing only the number of the suit, the names of the parties, and a short statement of the demand, and requiring the defendant to attend in person or by *vakeel*, and to deliver an answer to the plaint on or before a certain day, which must be specified in the notice.

What notice to be served on the defendant.

Second. The *moonsiff* shall deliver the notice to the plaintiff or to his *vakeel*, and the plaintiff may either himself serve the notice on the defendant, or through any other person whom he may choose to employ for that purpose.—Provided however, that the name of the person intended to be employed in this duty be in all cases endorsed on the notice by the *moonsiff*, previously to its being delivered to the plaintiff or his *vakeel* for execution.

To whom the notice is be delivered.

Third. The person through whom this notice may be served, shall require from the defendant a written acknowledgment, to be endorsed on the back of the notice, signifying that it has been duly served upon him, and he shall further cause some of the defendant's neighbours, or any *mundul* or *putwaree* or other principal inhabitant of the village, or the *mohullader* of the ward, to witness the due execution of the service, and he shall at all times state in his report, the name or names of such witness or witnesses.

And how it is to be served.

XX. When the defendant may be a weaver or a person employed in the provision of the Company's investment under the commercial residents, or in the provision of salt or opium in those departments, the notice above prescribed shall be enclosed within a sealed cover, addressed to the resident or agent, or to the assistant, or to the *gomashtah*, *ameen*, or head officer of the nearest *aurung*, *kothee*, or *chowkee*, subordinate to them, and shall be superscribed with the official seal and signature of the *moonsiff*. The resident, or agent, or his assistant, or head native officer, shall cause the notice to be duly served and acknowledged by the defendant, and shall then return it to the *moonsiff*.

Notice how to be served on weavers and other persons employed in certain departments on account of Government.

XXI. *First.* If a defendant who may have been served with a notice as directed in the two preceding sections shall not appear in person or by *vakeel*, within the time specified, or if having appeared, he shall refuse to answer the plaint, the *moonsiff* shall proceed to try the cause *ex parte*, and after examining the plaintiff's evidence in support of his claim, shall give judgment in the same manner as if the defendant had appeared and answered to the plaint.

Under certain circumstances the cause may be tried *ex parte*.

Second. It shall however be the duty of the *moonsiff*, previously to trying the case *ex parte*, to make such inquiries from the person who served the process, and from the persons who witnessed such service, as may satisfy his mind, that the notice was duly served on the defendant.

But *moonsiffs* required to ascertain, that the notice was duly served on the defendant.

XXII. *First.* In cases in which a defendant to whom a notice may have been issued in conformity with the preceding sections, may abscond or conceal himself, or cannot after diligent search be found, or shall refuse to give the required written acknowledgment, the person entrusted with the execution of the process, shall certify the same on the back of the notice, and shall require some person or persons being neighbours of the defendant, or

The absence of the defendant, or his refusal to acknowledge the service, how to be certified.

a *mundul*, or a *putwaree*, or other principal inhabitant of the village, or a *mohulladar* of the ward, in which the defendant may usually reside, to certify on the back of the process, that after diligent search the defendant cannot be found, or that he has refused to give the required written acknowledgment.

Proclamation to be issued after it shall have been certified that the defendant cannot be found, or has refused to acknowledge the service.

What the proclamation shall contain.

Second. When a return to this effect is made, the *moonsiff* shall cause a proclamation written in the current language and character of the country, to be affixed in a conspicuous part of his own *cutcherree*, and a copy of the same on the outer door of the defendant's usual place of residence, or some other conspicuous place near it. The proclamation shall contain a copy of the original notice, and shall state that if the defendant do not appear in person, or by a *vakeel*, within the period of fifteen days from the date of the proclamation, the suit will be brought to a hearing and determination, without the appearance or answer of the defendant.

If the defendant shall fail to attend within the period limited in the proclamation, the suit is to be tried *ex parte*.

Third. If the defendant shall still not appear either in person or by *vakeel*, the *moonsiff*, on the expiration of the period limited in the proclamation, shall proceed to try and determine the suit *ex parte*, with the same precautions, and in the same manner, as is prescribed in clause second, Section 21. of this regulation.

Moonsiffs prohibited from requiring security from defendants.

Moonsiff to report to the judge if the defendant means to abscond or to dispose of his property.

XXIII. In suits depending before them, the *moonsiffs* are hereby strictly prohibited from requiring security (either *mual* or *hazir zaminee*) from the defendants, or from attaching their property. But if the *moonsiff* shall be satisfied by sufficient proof, that the defendant intends to abscond and to withdraw himself from the jurisdiction of the court, or that he means to dispose of the property in his possession for the purpose of avoiding the execution of an eventual judgment against him, the *moonsiff* shall report the circumstances of the case to the judge, who will exercise his discretion in each instance, and pass such orders as may appear necessary, under the provisions contained in Sections 4. and 5, Regulation II. 1806. The judge may cause those orders to be executed either by the *moonsiffs*, or by the proper officers of his own court, as may appear most convenient.

Defendant to file an answer to the plaint, if he shall appear at any time before the plaintiff's evidence shall have been received.

XXIV. When the defendant shall attend either in person or by *vakeel*, within the period limited in the notice or proclamation, or at any subsequent period, before the plaintiff's evidence or proofs shall have been received in the case, he shall be allowed to take a copy of the plaintiff's petition, and to file his answer to the complaint.

Moonsiffs to prevent the insertion in the answer of irrelevant matter and abusive terms.

XXV. *First.* It shall be the duty of the *moonsiffs* to restrain and discourage as much as possible, the insertion in the answer of any matter evidently irrelevant to the suit, and of terms of abuse and reproach against the character of the parties or other persons.

In what cases the plaintiff may be permitted to file a reply.

Second. If the answer of the defendant shall be a simple admission or denial of the matter contained in the plaint, no further pleading shall be necessary in suits before the *moonsiffs*, but if the answer shall contain any plea or allegation, which may require a reply on the part of the plaintiff, in order to bring the matter in dispute to a distinct issue, or to which the plaintiff may be desirous of replying, such reply shall be filed on the next court day after that on which the defendant may have given in his answer. The plaintiff shall not introduce in his reply any matter not contained in his complaint. He shall either acknowledge the answer of the defendant to be true, or simply and shortly deny the truth of such of the facts in the answer, as he intends to dispute, or simply deny the truth of the facts contained in it, or the competency of the answer.

What is to be contained in the reply.

When the rejoinder is to be filed, and what it is to contain.

Third. The defendant shall rejoin to the reply on the same day. He shall not introduce in his rejoinder any matter not contained in his answer. He shall simply deny the truth of the reply of the plaintiff, or of those parts of it which he means to dispute, or aver the truth or competency of his own answer, and no further pleadings whatever shall be admitted in suits before the *moonsiffs*.

The answer, reply, and rejoinder not to be on stampt paper.

Fourth. The answer, reply, and rejoinder, in suits tried by the *moonsiffs*, are not required to be written on stampt paper.

On the occurrence of any unauthorized delay in filing the reply or rejoinder, the trial of the suit not to be postponed on that account.

Fifth. In suits in which the plaintiff may delay to file his reply, or the defendant to file his rejoinder, within the fixed periods; the *moonsiffs* are not required to postpone the trial of the suit on that account, but may proceed in it in the same manner, as if the reply or the rejoinder had been actually filed.

XXVI. The *moonsiffs* shall try all suits depending before them, in the order in which they have been filed or numbered; provided however, that the *sillah* or city judge be at all times authorized, either upon a report from the *moonsiff*, or upon other grounds of information, to direct the *moonsiff* to bring any particular suit or suits to a hearing and determination without attending to the regular order of the file.

Suits to be tried according to their order on the file.

Proviso.

XXVII. *First.* In cases, in which the answer shall have been filed, and the parties or either of them shall fail to appear in person or by *vakeel* at the time when the suit is first called over for trial, the *moonsiff* shall suspend the trial, and shall affix in some conspicuous place in his *cutcherree*, a notice that the suit will be again called over for trial after the expiration of a fixed period, not being less than ten days. If the plaintiff shall not appear before the *moonsiff* in person, or by a *vakeel* duly authorized within the limited time, the *moonsiff* shall dismiss his claim; if the defendant shall not so appear by the prescribed time, the *moonsiff* shall proceed to try the cause *ex parte*.

Notice to be affixed in the *cutcherree*, if either of the parties shall be absent when the suit is first called over for trial.

Mode of proceeding, if notwithstanding such notice either of the parties may fail to attend.

Second. Provided however, that if the suit be dismissed without an investigation of the merits, and either of the parties shall appeal from the decision of the *moonsiff*, it shall be the duty of the court trying the appeal to determine the case on its merits, or to remand it back to the *moonsiff* by whom it was dismissed, or to any other competent authority, for a further investigation.

Proviso for cases which may be dismissed without an investigation of the merits.

XXVIII. The *moonsiffs* are to try the suits depending before them by hearing the pleadings of the parties, by examining their documents, and by taking the depositions of their witnesses in the presence of the parties or of their *vakeels* duly constituted. They may also examine the truth of the claim by the oaths of the parties, if they mutually consent to that mode of examination.

Rules for the trial of suits depending before *moonsiffs*.

XXIX. *First.* If the plaintiff or defendant shall be desirous of summoning any witnesses to appear before the *moonsiff*, and such witnesses shall not attend at the requisition of the parties, the *moonsiff* is authorized to summon as witnesses, any persons subject to his jurisdiction, excepting women whose rank may be such as to render it improper to require their appearance in public. When the evidence of such women is necessary, it is to be taken in the mode prescribed by Section 6, Regulation IV. 1793; Section 2, Regulation VIII. 1795; and Section 7, Regulation III. 1803.

Moonsiffs authorized to summon witnesses who may not attend on the requisition of the parties.

Second. The summons shall specify the number of the suit on the file, the name of the party at whose request it may be issued, and the names and residence of the witnesses, and shall require them to appear at the *cutcherree* of the *moonsiff* on a specific day; and there to depose concerning the matter in dispute between the parties.

What the summons shall contain.

Third. The application of parties for the attendance of witnesses before a *moonsiff* need not be written on stampt paper, nor shall any fee be demanded or received by the *moonsiff* for issuing the prescribed summons.

Summons need not be written on stampt paper, and not liable to any fee.

Fourth. The *moonsiff* shall deliver the summons to the party applying for it, or to his authorized *vakeel*, and such party or *vakeel* may either serve the summons himself, or through any other person whom he may choose to employ for that purpose; provided however, that the name of the person intended to be employed in this duty be in all cases notified to the *moonsiff*, and endorsed on the summons previously to its being delivered to the party or his *vakeel*, for execution.

Mode in which the summons shall be served.

Proviso.

XXX. If any individual whose evidence is required shall be a person employed in the provision of the Company's investment under the commercial residents, or in the provision of salt and opium under the agents of Government, the summons shall be served in the same manner as is prescribed in Section 20. of this regulation, respecting the issue of notice to a defendant. The *moonsiffs* will be careful not to summon such persons unnecessarily, and on their attendance, shall cause them to be examined and dismissed with all practicable despatch.

Mode of summoning weavers and certain other persons employed on the part of Government, whose evidence may be required before *moonsiffs*.

Such witnesses to be examined and dismissed with all practicable despatch.

XXXI. *First.* If any person upon whom a summons may have been duly served in the manner above prescribed, shall not attend on the day appointed, the *moonsiff* is authorized to attach any property belonging to such person which may be found within his own jurisdiction. If after a reasonable time subsequent to such attachment, the person summoned

The property of witnesses who may not attend after being duly summoned, to be attached.

Moonsiffs how to proceed, if after such attachment witnesses shall not attend within a reasonable term.

ed shall still omit or refuse to attend, and it shall satisfactorily appear by the oath of the party requiring his evidence, that the testimony of such person is material to the cause, the *moonsiff* shall report the circumstances of the case to the judge, who will exercise his discretion in issuing such further process in order to compel the appearance of the witness before the *moonsiff*, as might be issued under the regulations if the suit were depending before the judge.

Further process to be used by the judge.

If such further process be insufficient to secure the attendance of the witness, such witness to be fined by the judge.

Second. If notwithstanding this further process, the attendance of the witness cannot be obtained, the judge shall at his discretion impose on such witness a fine not exceeding in any case the value or amount of the property in dispute; such fine shall be realized under the general provisions in force for the execution of decrees.

Fine how to be realized.

Recusing witnesses to be fined by the *moonsiffs*, and the circumstances reported to the judge.

Third. In cases in which a witness duly summoned may attend before the *moonsiff*, but shall refuse to give his evidence, or to subscribe his deposition, the *moonsiff* shall impose such fine upon him as may appear proper. The *moonsiff* is however strictly prohibited from realizing such fine by his own authority; he shall report the circumstances of the case to the judge, who will either remit or modify, or confirm the fine imposed by the *moonsiff*, and will proceed to realize it in the same manner as is prescribed in the preceding clause.

How the judge is to proceed on receiving such report.

XXXII. *First.* If any *moonsiff* shall require the evidence of a person not subject to his jurisdiction, and such person shall not attend at the requisition of the parties, the *moonsiff* shall make application to the *zillah* or city judge, who will issue the necessary process for procuring his attendance, either through the proper officers of his own court, or through the judge or the *moonsiff*, within whose jurisdiction such person may reside.

Witnesses residing in other jurisdictions how to be summoned.

Cases in which the evidence of witnesses required by *moonsiffs* may be taken on written interrogatories.

Second. If however the residence of the witness shall be at a considerable distance from the *moonsiff's cutcherree*, or if other circumstances should render it inconvenient or improper to compel the personal attendance of any witness, the *moonsiff* is hereby authorized and required to transmit to the judge any written interrogatories, which he may think necessary, or which may be suggested by the parties or their *vakeels*, in the suit. On the receipt of such written interrogatories, the judge will proceed to obtain the evidence of the witness in the mode prescribed by Section 6, Regulation IV. 1793; Section 2, Regulation VIII. 1795; and Section 7, Regulation III. 1803.

Witnesses not to be maltreated by *moonsiffs*, or detained from their homes longer than may be necessary.

XXXIII. The *moonsiffs* are hereby strictly prohibited from confining or otherwise punishing witnesses, and they are enjoined to take the depositions of witnesses attending before them, with all due expedition, so that they may not be exposed to any vexatious delay or unnecessary detention from their respective homes and employments.

The evidence of witnesses to be taken on oath.

XXXIV. The *moonsiffs* shall administer to witnesses such oaths as may be considered most binding on their conscience, according to their respective religious persuasions. But if the witness shall be of a rank, which according to the prejudices of the country would render it improper to compel him to take an oath; the *moonsiff* may dispense with his being sworn; and in lieu thereof, cause him to subscribe a solemn declaration (or *hulfnamah*) under the rules prescribed in Section 6, Regulation IV. 1793; and Section 7, Regulation III. 1803; or such other rules as may hereafter be prescribed.

Or on a solemn declaration.

The oath or solemn declarations of witnesses may be dispensed with by consent of the parties.

XXXV. The *moonsiffs* are at all times authorized to cause the examination of a witness to be taken on a solemn declaration, or even without such solemn declaration, whenever the parties in the suit, or their respective *vakeels*, may voluntarily and mutually agree to such witness being so examined.

Witnesses are not to be instructed or intimidated, and all leading and irrelevant questions are to be avoided.

XXXVI. In the examination of witnesses, the *moonsiffs* are enjoined carefully to prevent the parties and their *vakeels* or agents from instructing or intimidating the witnesses, or from putting to them leading questions, or questions suggesting a particular answer; questions also with regard to the personal character of the parties, or on points evidently irrelevant to the matter in dispute, are to be avoided as much as possible.

What is to be contained in the deposition of a witness, and how it is to be attested.

XXXVII. The deposition of every witness shall commence by specifying the name, the father's name, (or, if the deponent be a married woman, the name of her husband,) the religion, cast, profession, age, and place of residence of the deponent, and shall be subscribed by the witness with his or her name or mark.

XXXVIII. *First.* No fees shall be levied on exhibits filed before the *moonsiffs*, and exhibits shall be received in suits depending before them, without any *derkhaust* or written application for that purpose.—The *moonsiffs* are strictly prohibited from admitting or filing as an exhibit, or from receiving in evidence, any obligation, instrument, bond, deed, or document, whether it be the original, or a copy, of a description which is or may be required to be written on stampt paper, unless it shall have been duly executed on stampt paper of the description, value, and denomination prescribed by the regulations.

Exhibits in suits before *moonsiffs* are not liable to the payment of fees or stamp duties.

But no exhibits to be admitted which are not written on the prescribed stampt papers.

Second. In cases in which a *moonsiff* shall entertain doubts whether a document presented to him as an exhibit has been duly executed on paper bearing the prescribed stamp, he shall transmit such document, with a statement of the case, to the judge for his opinion, and shall be guided by the instructions he may in consequence receive from the judge, either in rejecting or admitting such exhibit.

Moonsiffs to report to the judge instances in which exhibits may appear to be written on stampt paper differing from the prescribed stampt paper.

Third. When an exhibit is filed in a suit before the *moonsiff*, it shall be dated and signed or sealed by him, and shall be marked with some letter or number to identify it; and such letter or number shall be distinctly referred to in those parts of the depositions of the witnesses, or of the proceedings, or of the decree, as may allude to such exhibit.

Exhibits are to be dated, signed, and marked, and are to be described according to that mark in the proceedings and decree.

XXXIX. When the parties have been heard, and the exhibits received and considered, and the witnesses on both sides examined, the *moonsiff* shall give judgment according to justice and right.

The decision is to be passed after consideration on the pleadings, exhibits, and evidence.

XL. The decree shall specify the names of the parties, and the names of the witnesses examined, and the titles of the exhibits read. It shall also contain an abstract statement of the material facts alleged in the pleadings of both parties, and an elucidation of the principal grounds and reasons on which the decision may be passed. It shall state specifically the sum of money, or the value or amount of the personal property adjudged, and the amount of the costs or damages payable by the parties respectively. If any claim shall appear to the *moonsiff* to be evidently litigious and vexatious, he shall adjudge suitable costs and damages against the plaintiff, and insert the same in the mode above directed in the decree.

What shall be contained in the decree.

Costs and damages to be awarded in the decree, in suits which may appear to be litigious or vexatious.

XLI. *First.* When the decision shall have been thus passed, the *moonsiff* shall cause two copies of it to be prepared, and after attesting them with his seal and signature shall, within one week after the date of the decree, tender the said copies in open *cutcherree*, both to the plaintiff and defendant, or to their *vakeels* respectively; he shall endorse on the back of the said copies the actual date on which they may be tendered to the parties in open *cutcherree*, and if either or both of the parties shall fail to attend, or shall refuse to receive the copies so tendered, he shall certify the same on the back of the copies.

Two copies of the decree to be prepared and tendered to the parties.

The date of the tender, and the cause of the non-delivery of the copies, to be certified by the *moonsiff* and endorsed on the back of the copies.

Second. Any *moonsiff* who may be guilty of wilfully mistating, or falsifying, or of causing to be mistated or falsified, the date and purport of the endorsement above directed to be written on the copies of the decrees, or of keeping back such copies of decrees from either of the parties, with the view of defeating or opposing a bar to their right of appeal shall, on proof thereof to the satisfaction of the provincial court, be liable to dismission from office, and to such discretionary fine to Government as may be deemed proper by that court.

Penalty for falsifying the date and purport of the endorsement, and for keeping back copies of the decree from either of the parties.

Third. The copies of decrees above directed to be tendered to parties by the *moonsiffs* need not be written on stampt paper.

Copies of the decrees tendered by the *moonsiffs* need not be written on stampt paper.

XLII. If a party, *vakeel*, or witness in any depending suit shall be guilty of disrespectful behaviour to the *moonsiff* in open court, the *moonsiff* is empowered to impose such fine on the party, *vakeel*, or witness so offending, as may appear proper. The *moonsiff* is however strictly prohibited from realizing such fine by his own authority. He shall report the circumstances of the case to the judge, who will either remit, modify, or confirm the fine imposed by the *moonsiff*; and in either of the latter cases, will proceed to levy it under the general provisions in force for the execution of decrees.

Moonsiff may fine parties, *vakeels*, or witnesses for disrespect in open court, and shall report such fines to the judge

The judge may remit or modify or confirm the fines, and may realize them by the process for execution of decrees

XLIII. *First.* It shall be the duty of the *moonsiffs* to transmit to the judge on the fifteenth of each month, or as much sooner as may be practicable, a report of all the suits decided by them in the preceding month, drawn up according to the annexed form No. 5, of the

Monthly report of suits decided, and proceedings on such suits, to be transmitted to the judges

the appendix. These reports shall be accompanied by all the original papers and documents in the case, that they may be deposited among the records of the court.

Half yearly report of depending suits to be transmitted to the judge according to a prescribed form.

Second. The *moonsiffs* shall likewise be required to transmit, on the 15th of January and 15th of July of each year, or as much sooner as may be practicable, a report of the causes depending before them on the 1st of January and 1st of July, drawn out according to the annexed form No. 6, of the appendix.

Monthly and half yearly reports how to be forwarded to the judge.

Third. The required monthly and half yearly reports shall be enclosed in a cover addressed to the judge, and sealed with the seal of the *moonsiff*. The packet shall be forwarded to the judge either by the public dawk, (the officers of which are hereby required to receive and convey such packets free of postage,) or by a servant of the *moonsiff*; or the *moonsiff* may deliver it to the nearest police *darogah*, who shall give a receipt for it, and convey it to the judge. The *moonsiffs* are directed to seal and fasten the public packets and reports which they may have occasion to transmit to the court, in such a manner as may enable the court to detect any instance in which the packets may be opened, or the seals broken, during their transmission to the court.

Moonsiffs prohibited from executing their own decrees.

XLIV. The *moonsiffs* are strictly prohibited from enforcing their own decisions, and from issuing any process, or using any coercive means for that purpose, except in cases in which the judge, under the power vested in him by Sections 51. and 52, may deem it expedient to employ them in the execution of that duty.

Mode of obtaining the execution of a decree passed by a *moonsiff*.

XLV. *First.* Whenever a party who may have obtained a decree in the court of a *moonsiff* shall be desirous of having it enforced, he shall present a petition to the *zillah* or city judge, written on the stampt paper prescribed by Section 18, Regulation I. 1814. If the decree shall have been passed previously to the 1st of February 1815, the petition shall be presented within the period of one year from that date; if the decree shall be passed on or after the 1st of February 1815, the petition shall be presented within the period of one year from the date of the decree.

A petition to be presented to the judge.

What such petition is to contain.

Second. Such petition shall be presented either in person or through an authorized pleader of the court, and shall contain a statement of the number of the suit, of the name and designation of the *moonsiff* by whom it was decided, of the names of the parties in the cause, of the date of the decision, and of the total sum which may have been adjudged to the petitioner, either on account of the original claim or of costs of suits; the petition shall further state whether an appeal has or has not been admitted from the *moonsiff's* decision.

The original decree and the monthly report of causes decided to be examined.

Third. When such petition shall be received, the judge shall cause the purport of the petition to be compared with the decree in the original record of the suit, and with the statement contained in the monthly report of causes decided by the *moonsiff*.

Mode of proceeding where an appeal may have been admitted.

Fourth. If the suit shall have been regularly appealed, the execution of the *moonsiff's* decree shall be suspended or otherwise, according to the rules in force.

If the periods limited for the execution of decrees shall have elapsed, the party to be referred to a new suit.

Fifth. If the petition for the execution of a *moonsiff's* decree shall not be presented until after the periods prescribed in clause first of this section, and no satisfactory cause shall be shewn for the delay, such decree shall not be executed, but the party shall be allowed to institute a new suit in the *zillah* or city court; in the trial of such suits, the defendant shall not be allowed to impugn the merits of the original judgment, passed by the *moonsiff*, unless the suit shall have been tried *ex parte* in the first instance; but he may shew that the sum originally decreed, or any part of it, has been subsequently paid, or that the matter in dispute has been adjusted by the parties since the date of the original judgment.

What may be pleaded by the defendant in such suit.

If the limited periods shall not have elapsed, the decree is to be executed.

Proviso.

Sixth. If the petition for the execution of a *moonsiff's* decree, shall be presented within the limited periods prescribed by clause first of this section, and no appeal shall have been preferred from the decision, such decree shall be enforced in conformity with the regulations; provided however, that if the judge shall have reason to believe that the decree was obtained in an irregular manner, or that on any other sufficient grounds it ought not to be enforced, he may permit the party against whom the decree may have been passed, to prefer an appeal from such decree, although the prescribed period for admitting such appeal may have elapsed.

Seventh. With a view to prevent the protracted imprisonment of persons confined in execution of decrees for sums of inconsiderable amount, it is hereby provided, in addition to the rule contained in Section 11, Regulation II. 1806, that no person from and after the 1st February 1815, shall be liable to personal confinement, in satisfaction of a decree for any sum, not exceeding sixty-four sicca rupees, beyond a period of six months; but that at the expiration of that period, any person so confined, shall be entitled to be released; but any property which may belong to such person shall at all times, either during his imprisonment or subsequently to his release, be liable to attachment and sale for the purpose of realizing the amount of the judgment, or such part thereof as may remain due.

No person to be imprisoned in execution of a decree not exceeding sixty four sicca rupees for a longer period than six months.

But any property belonging to such person liable to be sold in execution of the judgment.

XLVI. *First.* Any person dissatisfied with the decision of a *moonsiff*, shall be at liberty to appeal from it to the judge, provided the petition of appeal be presented within thirty days after the date on which copies of the decrees may have been furnished or tendered to the parties or to their *vakeels*, in conformity with Section 41. of this regulation; a discretionary power however is vested in the judge of admitting appeals from decisions of the *moonsiffs*, although the petitions may not be presented within the prescribed period, if the appellant shall shew satisfactory cause for not having before presented the petition.

Mode of admitting appeals from the decisions of *moonsiffs*.

Second. All petitions of appeal from decisions of the *moonsiffs* are to be presented to the judge of the *zillah* or city, in which the *moonsiffs* may officiate, and the *moonsiffs* are prohibited from receiving any petitions of appeal from their own decisions.

Petitions of appeal from decisions of *moonsiffs* to be presented to the judge.

Third. All petitions of appeal from decisions of *moonsiffs* are to be presented by the appellant in person, or by one of the authorized *vakeels* of the court; and if the appeal shall be admitted, and the appellant and respondent shall not plead their cause in person, their respective *vakeels* are to be allowed the same fees as in other suits tried before the judge.

How such petitions are to be presented.

Fourth. Decisions of the *moonsiffs* are not to be set aside for want of form, or for irregularity in their proceedings, but on the merits only.

Decisions of *moonsiffs* not to be set aside for want of form.

Fifth. When an appeal may be received from the decision of a *moonsiff*, the judge is empowered to suspend the execution of the decree, provided the party appealing against it, shall give good and sufficient security, within a reasonable period to be fixed by the judge, to perform the decree of the court.

In what cases the judge may suspend the execution of decrees passed by *moonsiffs*, from which an appeal may be admitted.

XLVII. *First.* The *zillah* and city judges may for any reason that may appear to them sufficient, bring up for trial before them, or their registers, or the *sudder ameens*, any causes, that may be depending before the *moonsiffs*, or may transfer such causes from one *moonsiff* to another.

Suits depending before *moonsiffs* may be tried by the judge, or referred for trial to other tribunals.

XLVIII. Upon the death, removal, or resignation of any *moonsiff*, the judge shall, if necessary, immediately nominate another person in his room for the approbation of the provincial court, and shall cause all papers in the causes depending before the late *moonsiff* to be delivered over to his successor, or otherwise to be disposed of as circumstances may require.

When a vacancy may occur in the office of *moonsiff*, the judge to nominate a successor.

XLIX. *First.* The compensation, which the *moonsiffs* shall be hereafter entitled to receive for their trouble in the trial of suits which may be decided by them subsequently to the 1st February 1815, and for the necessary establishment of officers, shall be adjusted in conformity with the following clauses.

Rules regarding the compensation to be granted to *moonsiffs* on the decision of suits subsequently to the 1st of February 1815.

Second. On every suit which may be now depending or may be hereafter instituted in the *cutcherree* of the *moonsiffs*, and which may be adjusted by *razeenamah* or decided by the *moonsiffs* on an investigation of the merits, subsequently to the 1st February 1815, they shall be entitled to receive the full amount of the institution fee, or the full value of the stampt paper, substituted for such institution fee, on which the plaint or petition in such suit may have been written.

The full value of the stampt paper on which the plaint may have been written to be paid to *moonsiffs* on suits decided by them on the merits, or adjusted by *razeenamah*.

Third. Together with the monthly report of causes decided, which the *moonsiffs* are required to transmit under Section 43. of this regulation, the *moonsiffs* shall forward a separate statement under their respective seals and signatures, exhibiting the amount of the institution fee, or the value of the stampt paper substituted for such institution fee, in all suits which may have been decided by the *moonsiffs* during the past month, on an investi-

Statement to be prepared from the monthly reports of causes decided.

Suits dismissed on default, or nonsuited, not to be included in such statement.

gation of the merits of the case, or which may have been adjusted by *razeenamahs* of the parties; from this statement shall be carefully excluded the amount of the institution fee, or the value of the stampt paper substituted for such fee, in those plaints, which may have been dismissed from the non-attendance of the plaintiff, or from any other ground of nonsuit or default. The *moonsiffs* shall not be entitled to any remuneration on suits, which may have been disposed of by them without a determination on the merits of the case, or in adjustment by *razeenamahs* of the parties.

The sums to which the *moonsiffs* may be entitled, to be paid to them through the treasurer of the court.

Fourth. The statement so transmitted shall be carefully revised, and shall be compared with the original records of the suits by the *serishtadar*, or treasurer, or other authorized officer of the court, and shall be countersigned by such officer in testimony of his having ascertained the accuracy of the statement; an order shall then be endorsed on the statement under the seal of the court, and the signature of the judge, and such order shall be a sufficient authority to the treasurer of the court for the payment of the amount to the *moonsiffs*.

The judges may employ the *moonsiffs* in the investigation of questions respecting local rights and usages.

L. *First.* In questions which may arise in suits depending before the judge of any *zillah* or city court, relating to the adjustment of accounts in revenue or mercantile transactions, or regarding the boundaries of lands or houses, or regarding the right of way in roads or pathways, or regarding any right in forests, commons, rivers, lakes, ponds, wells, reservoirs, or watercourses, or regarding the quantity or description of land and the rent to which it is liable, and generally in all questions of local rights and usages which cannot be conveniently decided without an inquiry on the spot, the *zillah* or city judge may empower any *moonsiff* within his jurisdiction to make a local investigation into the merits of the question in dispute.

Instructions and proceedings to be furnished to the *moonsiffs* in such cases.

Second. The *zillah* or city judges shall furnish to the *moonsiffs* such part of the proceedings, and such detailed instructions in each case, as may be necessary for his information and guidance; and shall enjoin the *moonsiff*, either merely to take the requisite evidence in the presence of the parties or their *vakeels*, and to transmit the same to the court, or likewise to transmit, with the evidence so taken, a report of his own sentiments on the point at issue founded on the result of the investigation held by him.

The proceedings of the *moonsiff* to be received as evidence in such cases, unless the judge may be dissatisfied with them.

Third. The proceedings of the *moonsiff* are to be received as evidence in the case, with regard to the specific matter which he may have been directed to investigate; but if the judge shall have reason to be dissatisfied with the proceedings of the *moonsiff*, he is at liberty to make such further inquiry as may be requisite, and to pass such ultimate judgment as may appear to him to be right and proper.

Moonsiffs may be employed in giving possession of real property under decrees.

LI. *First.* The *zillah* and city judges are further authorized to employ the *moonsiffs* in delivering over formal possession of lands, houses, or other real property, in conformity with decrees regular or summary.

Moonsiffs how to be remunerated for their trouble in such cases.

Second. Previously however to issuing any instructions to a *moonsiff* for the performance of any of the duties described in this or the preceding section, the judge shall require either the plaintiff or the defendant, according to the circumstances of the case, to pay into court such a sum of money as may be an adequate remuneration to the *moonsiff* for his trouble, provided such sum do not exceed the probable expense which would be incurred if an *ameen* or a native officer of the court were employed in the execution of the same duty.

Such remuneration to be forfeited, if the *moonsiffs* shall have been guilty of misconduct in the execution of the duty.

Third. The *moonsiff* shall be entitled to receive such sum as may have been paid into court under the preceding clause, except under circumstances, in which he may appear to have performed the duty entrusted to him in a negligent, unjust, or improper manner; in such cases, the said sum of money shall be returned to the party who deposited it in court.

Moonsiffs may be employed to sell personal property by order of the judge, and shall receive a commission on the proceeds of such sale.

LII. The *moonsiffs* may be employed at the discretion of the *zillah* and city judges in the attachment and sale of personal property for the purpose of realizing the amount of fines, or of decrees regular or summary, and shall be entitled to receive a commission of one anna in each rupee on the proceeds of such sales.

Moonsiffs may be directed to report on the sufficiency of securities, and the indigence of paupers.

LIII. The *zillah* and city judges are further empowered to employ the *moonsiffs* in ascertaining and reporting upon the sufficiency of securities, and the indigence of persons suing *in formâ pauperis*.

LIV. The provisions of the preceding sections are not intended to preclude the *zillah* and city courts from deputing an *ameen* for local inquiries, or from employing the authorized officers of the court in the execution of the various duties above detailed, whenever they may deem it expedient to do so in conformity with the existing regulations; and the *zillah* and city judges will be careful, that the time of the *moonsiffs* be not so much occupied in the miscellaneous duties above described, as to interfere materially with the early trial and decision of the regular suits depending before them.

The preceding rules are not to preclude the employment of *ameens* or other officers of the court.

Judges to be careful that the time of the *moonsiffs* be not too much occupied in miscellaneous duties.

LV. The *moonsiffs* shall continue to discharge the same functions and to exercise the same powers as are at present vested in them by the regulations in force, regarding distress and sale for the recovery of arrears of rent.

Moonsiffs to act as heretofore in the sale of distrained property.

Local rule for *moonsiffs* in the town of Juggunauthpooree in *zillah* Cuttack.

LVI. The rules contained in Section 6. of this regulation, regarding the local jurisdiction of *moonsiffs*, shall not be considered applicable to the *dewul purchas*, who under Section 23, Regulation IV. 1806, may be appointed to the office of *moonsiff* in the town of Juggunauthpooree, and its dependencies. Such *moonsiffs* shall however receive a new *sunnud*, drawn up according to the form prescribed in No. 1. of the appendix, and shall be invested with the additional powers conferred on *moonsiffs* generally by this regulation.

Local rule for *moonsiffs* in the town of Juggunnathpooree.

Local rules for *moonsiffs* in *zillah* Chittagong.

LVII. The preceding rules of this regulation are hereby declared applicable to the native commissioners employed in the *zillah* of Chittagong; but in addition to the suits for sums of money, or personal property not exceeding sixty-four rupees, which they are authorized to receive and try under this regulation, the judge of *zillah* Chittagong is hereby empowered to refer to them for trial and decision suits for landed property, provided that the amount of the suit calculated in conformity with the provisions of Section 14, Regulation I. 1814, do not exceed the sum of sixty-four sicca rupees.

The judge of *zillah* Chittagong may refer suits for landed property, not exceeding 64 Rs. in amount, to the *moonsiffs* in that *zillah*.

LVIII. The *moonsiffs* in *zillah* Chittagong who may be vested with the powers of hearing and determining suits for landed property, shall receive a *sunnud* from the judge, in the form prescribed in the appendix No. 1, and shall take the oath prescribed in the form No. 2. of the appendix, with such alterations in those forms respectively as may be requisite under the preceding section.

Form of *sunnud* to be granted to *moonsiffs* in *zillah* Chittagong and of the oath to be taken by them.

LIX. *First.* The special rules contained in the two following clauses, are further prescribed for their guidance.

Special rules for commissioners of land suits in *zillah* Chittagong.

Second. In all cases of inheritance of, or succession to landed property, the Mahomedan laws with respect to Mahomedans, and the Hindoo laws with regard to Hindoos, are to regulate the decision; and the commissioners in all such cases are to obtain an exposition of the law from the law officers of the *zillah* court, to whom they are to transmit a written abstract of the case for this purpose: such exposition however is not to preclude a further reference to the law officers of the *zillah* courts, upon such points of law as may arise upon the cause, in the event of its being tried in appeal.

By what laws their decisions are to be regulated.

Exposition of the law how to be obtained.

Third. In all suits relative to the inheritance of, or succession to, landed property, the commissioners are to affix in some conspicuous part of their *cutcherrees* a written notification of the claim preferred, with a requisition to all persons who may have any claim to the property sued for, to prefer the same within a limited period; and their decisions are to include all claimants to the property in question, who according to the law of the parties, whether Mussulmans or Hindoos, have a just and legal title to share therein.

Notification to be issued in suits relative to the inheritance of, or succession to, landed property.

And all claimants to be included in the decision.

LX. The following rules are enacted for defining the jurisdiction and explaining the duties of the persons who now hold, or may hereafter be appointed to the office of *sudder ameen*.

Jurisdiction and duties of *sudder ameens*.

LXI. The number of *sudder ameens* to be hereafter employed in each *zillah* or city shall be unlimited. The provincial courts may at all times exercise their discretion in diminishing

Provincial courts may augment or diminish the number of *sudder ameens*.

according to local circumstances.

diminishing or augmenting the number of those officers, on a consideration of the state of civil business and other local circumstances.

Law officers of the *zillah* and city courts to be *ex-officio sudder ameens*.

LXII. The Mahomedan and Hindoo law officers of the *zillah* and city courts, shall by virtue of their offices, be deemed *sudder ameens* of the *zillah* or city, in which they may be respectively employed.

Nomination and appointment of other *sudder ameens*.

LXIII. All other *sudder ameens* shall be nominated by the judges of the *zillah* or city courts, and approved by the provincial court, and shall not be authorized to enter upon the duties of the office without the previous sanction of that court.

Judges to report to the provincial courts the qualifications of persons whom they may recommend for the office of *sudder ameens*.

LXIV. In the future nomination of individuals for the office of *sudder ameen*, the *zillah* and city judges are not restricted to persons of any particular class or religious persuasion, but are required carefully to select such individuals, as may be best qualified for the trust, and to communicate to the provincial court full information regarding the native country, age, education, capacity, character, and past employments of the individuals whom they may recommend.

Former *sunnuds* granted to *sudder ameens* to be recalled, and new *sunnuds* in a prescribed form to be furnished to them.

LXV. *First.* The commissions or *sunnuds* of appointment, which may have been granted to persons holding the office of *sudder ameen*, shall be recalled and cancelled, and in lieu thereof, new *sunnuds* shall be granted to them under the seal and signature of the judge, drawn up according to the form prescribed in the appendix No. 7.

Similar *sunnuds* to be granted to *sudder ameens* who may be hereafter appointed, but not to the law officers of the *zillah* and city courts

Second. Similar *sunnuds* shall also be granted to all persons, who may be hereafter appointed to the office of *sudder ameen*. It will not however be necessary to grant such *sunnuds* to the law officers of the *zillah* and city courts, who by Section 62. of this regulation, are, by virtue of their offices, vested with the powers of *sudder ameen*.

Form of oath to be taken and subscribed by *sudder ameens* who may be hereafter appointed

A solemn declaration may be admitted in lieu of the oath.

LXVI. Every person, who may in future be appointed to the office of *sudder ameen*, shall previously to entering upon the execution of the duties of his situation, take and subscribe an oath according to the form prescribed in the appendix No. 8, before the judge of the *zillah* or city in which he may be appointed to officiate; but the judge is empowered in all cases, in which he may deem it expedient, to exempt such *sudder ameen* from taking the oath, and in lieu thereof to cause him to subscribe a solemn declaration to the same effect.

Sections 9. and 10. of this regulation, applicable to *sudder ameens*, whose *cutcherrees* shall be held in such places as the judges may direct.

LXVII. The provisions of Sections 9. and 10. of this regulation, are hereby declared to be applicable to the office of *sudder ameens*, as well as to that of *moonsiffs* appointed under this regulation; the *sudder ameens* are to hold their *cutcherrees* at the station where the *zillah* or city court is held, in such convenient places as the judge may direct.

What suits may be referred to a *sudder ameen*.

LXVIII. The judges of *zillahs* and cities are authorized to refer to the *sudder ameens* for trial and decision any original suits for money or other personal property, not exceeding in amount or value 150 sicca rupees, or for the property or possession of land or other real property, the amount of which, calculated in conformity with the provisions of Section 14, Regulation I. 1814, may not exceed 150 sicca rupees. No suit however shall be hereafter referred for trial and decision to a *sudder ameen*, in which he himself, or his relatives, or dependants, or the *vakeels* or officers of his court, or a British European subject, or an European foreigner, or an American may be a party, or in which the plaintiff may have been admitted to sue in *formâ pauperis*.

Cases involving questions of law to be referred respectively to the Hindoo and Mahomedan law officers.

LXIX. In referring suits for trial to the *sudder ameens*, the judge shall generally refer such cases as are likely to involve questions of Hindoo law to the Hindoo law officer, and of Mahomedan law to the Mahomedan law officer.

Stamp duty to be levied on the institution of suits referred to *sudder ameens*.

LXX. No institution fee shall be levied on suits referred to any *sudder ameen*, but the following stamp duties shall be levied in lieu thereof, in conformity with the tenor of the rules contained in Regulation I. 1814.

If the sum of money, or value or amount claimed, shall not exceed sixteen rupees, the plaint or petition shall be written on stampt paper of one rupee.

If above sixteen, and not exceeding thirty-two rupees, two rupees.

If above thirty-two rupees, and not exceeding sixty-four rupees, four rupees.

If above sixty-four, and not exceeding one hundred and fifty rupees, eight rupees.

LXXI. The *sudder ameens* are themselves to investigate the suits referred to them in a public *cutcherree* or court-room, and are not to allow their officers, servants, or dependants, or any other person to interfere therein.

Sudder ameens are themselves to investigate suits referred to them.

LXXII. All causes referred to the *sudder ameens*, shall be pleaded either by the parties in person, or by an authorized *vakeel* of the *zillah* or city court. The judges of the several *zillahs* and cities will assign to the court of each *sudder ameen*, such a number of the authorized *vakeels* as may appear necessary. The whole of the regulations in force regarding the authorized *vakeels* of the *zillah* and city courts, shall be applicable to the authorized *vakeels* employed in the courts of the *sudder ameens*.

How such suits shall be pleaded.

LXXIII. The provisions contained in Sections 18. and 23, clause fourth, Section 25, in Sections 26, 33, 34, 35, 36, 37, 38, 39, 40, 41, 43, 44, 46, 47, 48, and 49, of this regulation, are hereby declared to be equally applicable to original suits referred to *sudder ameens* as to those tried by *moonsiffs*. The special rules prescribed in Sections 57, 58, and 59, shall be likewise strictly observed by the *sudder ameens* in all suits, which may be referred to them relative to the inheritance of or succession to landed property.

Recital of the provisions of this regulation which are applicable to suits tried by *sudder ameens*.

LXXIV. In points not expressly provided for by the foregoing rules, the *sudder ameens* shall observe, as nearly as may be practicable, the rules prescribed in the regulations for the guidance of the *zillah* and city courts in the trial and decision of original civil suits. Provided however, that every notice, summons, attachment, or other process relative to any cause depending before a *sudder ameen* shall be issued under the seal of the *zillah* and city court, and under the official signature of the judge or register, and shall be executed through the regular officers of the *zillah* or city courts; provided further, that nothing in this regulation shall be construed to empower the *sudder ameens* to realize by their own authority any fines, which they may impose under the general regulations. In such instances they shall report the circumstances of each case to the *zillah* or city judge, who will either remit, or modify, or confirm, the fine imposed by the *sudder ameen*, and proceed will to realize the same under the same rules, as are prescribed for the execution of decrees.

Rules to be followed in cases not expressly provided for.

Proviso.

Further proviso.

LXXV. *First.* In addition to the original suits, which the *zillah* and city judges are authorized to refer to *sudder ameens* under Section 68, they are empowered to refer to the *sudder ameens*, any depending appeals from the decisions of *moonsiffs*, which the judges themselves may be unable to try and determine with sufficient despatch.

What appealed suits may be referred to *sudder ameens*.

Second. The *sudder ameens*, to whom such appeals may be referred, shall keep a separate register book of them, according to the form prescribed in No. 4. of the appendix to this regulation; and in their monthly and half yearly reports, they shall carefully distinguish suits referred to them in appeal, from suits referred to them for trial and determination in the first instance. The decisions of *sudder ameens* on appeals referred to them under this section shall be final, unless the *zillah* or city judges shall see reason to admit a special appeal under the provisions of Section 2, Regulation XXVI. 1814.

A separate register book to be kept of such appeals.

Decisions of *sudder ameens* on such appeals to be final.

Third. The *sudder ameens* shall try and determine all appeals, which may be referred to them in conformity with the rules prescribed for the trial and determination of appeals by the *zillah* and city courts, and when such appeals may be decided by them on an investigation of the merits of the case, or may be adjusted by *razeenamahs* of the parties, they shall be entitled to receive the same fees, as in original suits decided by them under the provisions of Section 49. of this regulation.

Rules for the trial of such appeals, and remuneration, to which the *sudder ameens* are entitled in such appeals.

LXXVI. *First.* In the trial of regular suits by the *zillah* or city judges, or in miscellaneous cases, whenever the adjustment of accounts regarding the execution of decrees, and mercantile or revenue transactions, or the investigation of disputes between landlord and tenant, or of other special matters of account, fact, or usage may be requisite; and such adjustment or investigation, if conducted by the judge himself, would occupy a larger portion of his time than could be conveniently devoted to it; the judge is hereby authorized to direct any of the *sudder ameens* under his jurisdiction, to make such adjustment or investigation.

Matters of account and of fact and of usage may be referred to the *sudder ameens* for adjustment, investigation, and report.

Second. The judge shall in these cases furnish to the *sudder ameen* such part of the proceedings and such detailed instructions, as may appear necessary for his information and guid-

Instructions to be furnished to the *sudder ameens* on such references.

guidance; and shall direct the parties, or their *vakeels* or authorized agents, to attend upon the *sudder ameen* during the adjustment or investigation.

What the instructions are to specify.

Third. The instructions must distinctly specify, whether the *sudder ameen* is merely to transmit the proceedings, which he may hold on the inquiry, or also to report his own opinion on the point referred for his investigation.

The proceedings of the *sudder ameens* on such references to be received as evidence.

Fourth. The proceedings of the *sudder ameen* are to be received in evidence in the case, unless the judge may have reason to be dissatisfied with them, in which case he will make such further inquiry as may be requisite, and will pass such ultimate judgment or order, as may appear to him to be right and proper.

Remuneration to be made to the sudder ameens *on the completion of the duty.*

Fifth*. *On the completion of the adjustment or inquiry, the judge shall order such a sum to be paid to the* sudder ameen *by one or both of the parties in the case, as may appear to be an adequate remuneration for his trouble; provided however, that such sum shall in no case exceed one-fourth of the value of the institution fee, or the amount of the stamp duty substituted for such institution fee, under Regulation I.* 1814.

Proviso.

Further proviso.

Sixth. Provided further, that in those *zillahs* or cities, in which a monthly salary is allowed by Government to a *sudder ameen*, the adjustments or investigations described in this section shall be referred to such head commissioner, in all cases, in which it would be improper to burthen the parties with any additional expense. In consideration of the monthly salary received by such *sudder ameen* from Government, he shall not be entitled to receive any additional compensation in those instances, either from the parties or from Government.

Power vested in *zillah* and city judges by Sections 50, 51, and 52, extended to registers with certain restrictions.

LXXVII. The power vested in the *zillah* and city judges by the preceding section, and by Sections 50, 51, and 52. of this regulation, of referring special matters for adjustment or investigation to *sudder ameens* and *moonsiffs*, may also be exercised by the *zillah* and city registers in cases before them; with a view however to prevent the time of the *sudder ameens* and *moonsiffs* from being too much occupied by miscellaneous duties, the register shall make those references through the channel of the *zillah* and city judge, who will exercise his discretion, either in sanctioning the reference, or in enjoining the register to make the adjustment or investigation according to the ordinary and established forms.

The provisions of this regulation are not intended to apply to the foreign settlements.

LXXVIII. It is hereby declared, that the provisions of this regulation are not applicable to the office of any *moonsiff* or *sudder ameen*, who may be employed in the settlements of Chandernagore, Chinsurah, and Serampore.

APPENDIX.

No. 1.

FORM of SUNNUD to be granted to persons appointed to the office of *moonsiff*.

I, A. B. judge of the *zillah* or city of ———— in virtue of the powers vested in me by Regulation XXIII. 1814, do hereby appoint you C. D. to the office of *moonsiff* of ———— with the same local jurisdiction as that of the police jurisdiction of ———— You are to hold your *cutcherree* at ———— and are to affix this *sunnud*, or a copy of it, duly authenticated, in some conspicuous place in the *cutcherree*. Under the rules now in force, you will receive the remuneration to which you may be entitled for the trial and decision of suits from the *zillah* or city court; and you are not entitled to receive any institution or other fee, any deposit or sum of money, or valuable consideration from any parties, or other persons, on account of the institution or trial, the proceedings, process, or decision of any suit before you. You are not empowered to take or demand any security; to levy any fine, or to execute any decree, without the previous sanction and orders of the *zillah* or city court in each instance. You are to hear and determine all suits cognizable by you, and to execute all other duties entrusted to you in your capacity of *moonsiff*, in strict conformity with the rules prescribed in the regulations now in force, or which may hereafter be enacted."

No. 2.

FORM of OATH to be administered to persons appointed to the office of *moonsiff*.

"I, A. B. appointed to the office of *moonsiff* of ————do solemnly swear, that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive

* This clause is rescinded by Section 5, Regulation XIII. 1824.

any money, effects, or property, on account of any suit that may come before me for decision, or on account of any public duty which I may have to execute. I will strictly adhere to all the rules prescribed for my guidance, and I will in all respects truly and faithfully execute the trust reposed in me."

No. 3.

FORM of SUNNUD to be granted to persons who may be appointed to officiate as *Vukeels* in the *cutcherrees* of the *Moonsiffs*.

"I A. B judge of the *zillah* or city of ——— do hereby appoint you C. D. to act in the capacity of *vakeel* in the *cutcherree* of the *moonsiff* of ———. You will not be liable to be removed from your office, unless the judge of the district or city of ———, in consequence of misconduct on your part, or of there being no longer any necessity for your being employed in the capacity of *vakeel*, shall deem it proper to recall and cancel this *sunnud*."

No. 4.

FORM of a REGISTER BOOK of SUITS (instituted before *Moonsiffs*) (or referred to *Sudder Ameens.*)

Number of the suit.	Date of its institution (or reference).	Names of the parties.	Amount and subject of the claim.	Date and abstract of the final order.	Date on which copies of the decree were furnished or tendered to the parties.
No. 1.	2d of February, 1815.	Ramchund Paul, *vs.* Punchoo Gope.	Debt on bond 37 Rs.	20th of March 1815. Decreed in favour of the Plaintiff 33 Rs. original, and 2 Rs. interest Defendant to pay costs 4 Rs. 6 As. Total 39 Rs. 6 As.	24th of March 1815 One copy furnished to the Plaintiff himself, and another to the *vakeel* of the Defendant.
No. 2.	2d of February.	Khodabukah, *vs.* Meerun.	Debt of 7 Rupees for value of rice furnished to Defendant.	Adjusted by *razeenamah*, 10th of February.	
No. 3.	3d of February.	Poorun Sing, *vs.* Mohun Chassa.	Arrears of rent 14 Rupees.	April 1st. Decreed for 7 Rupees. Parties to pay their own costs.	April 7th. Plaintiff absent. Copy of the decree furnished to the Defendant.

No. 5.

FORM of MONTHLY REPORT of CAUSES decided by A. B. *Moonsiff* or *Sudder Ameen* of ——— in the Month of ——— corresponding with the Month of ———.

Number of the suit on the Register Book, and date of its institution (or reference).	Names of the parties.	Substance of the suit.	Date and substance of the decision.	Value of stampt paper on which the plaint was written.
No 6. 4th February 1815.	Ramchurn, *vs.* Radanath.	Debt of 20 Rupees.	Decreed on the 3d April, for 20 Rupees and 2 Rupees 8 As. costs.	2 Rupees.

No. 6.

HALF YEARLY REPORT of CAUSES depending before A. B. *Moonsiff* or *Sudder Ameen* of ———, on the 1st of July 1815.

Number of the cause on the Register Book, and date of its institution (or reference).	Names of the parties.	Substance of the suit.	Remarks explanatory of the cause remaining undecided.
No 96. 4th of May 1815.	Ramchurn, *vs.* Gungaram.	30 Rupees balance of accounts.	Suspended for the evidence of witnesses on the part of the Defendant, who have been summoned.

No. 7.

FORM of SUNNUD to be granted to persons appointed to the office of *Sudder Ameen*.

"I A. B. judge of the *zillah* or city of ——— in virtue of the powers vested in me by Regulation XXIII. 1814, do hereby appoint you C. D. to the office of *sudder ameen* of the *zillah* or city of ——— You are to hold your *cutcherree* at ———, and are to affix this *sunnud*, or a copy of it, duly authenticated, in some conspicuous place in the *cutcherree*. You will receive the remuneration to which you may be entitled for the trial and decision of suits, from the *zillah* or city court; and you are not entitled to receive any institution or other fee, any deposit or sum of money or valuable consideration from any parties or other persons on account of the institution or trial, the proceedings, process, or decision of any suits before you. You are not empowered to take or demand any security, to levy any fine, or to execute any decree, without the previous sanction and orders of the *zillah* or city court in each instance. You are to hear and determine all suits cognizable by you, and to execute all other duties entrusted to you in your capacity of *sudder ameen*, in strict conformity with the rules prescribed in the regulations now in force, or which may hereafter be enacted."

No. 8.

FORM of OATH to be administered to persons appointed to the office of *Sudder Ameen*.

"I A. B. appointed to the office of *sudder ameen* of the *zillah* or city ——— do solemnly swear, that in the trial and determination of all suits which may come under my cognizance, and in the execution of all the other duties of my office, I will act according to the best of my abilities and judgment, without partiality, favour, or affection; that I will not directly or indirectly receive, or knowingly allow any other person to receive, any money, effects, or property, on account of any suit that may come before me for decision, or on accouut of any public duty which I may have to execute; I will strictly adhere to all the rules prescribed for my guidance; and I will in all respects truly and faithfully execute the trust reposed in me."

A. D. 1821. REGULATION III.

A REGULATION *for extending in special Cases the Powers of Assistants to the Magistrates; for empowering the Hindoo and Mahomedan Law Officers of the Zillah and City Courts and Sudder Ameens to try and determine petty Thefts, and other Criminal Cases of a trivial Nature, when referred to them by a Magistrate; for limiting the Period of Appeal in Foujdaree Cases; for rescinding Parts of Section* 12. *and* 17, *Regulation XXII.* 1816; *for modifying some of the Rules in Force relative to the Rate and Collection of the Assessment levied for the Maintenance of Chokeydars of Police; and for vesting the Magistrates with certain Powers in regard to Persons travelling through, or assembling within their Jurisdictions, under suspicious Circumstances.*—PASSED *by the Governor General in Council, on the* 19*th January* 1821; *corresponding with the* 8*th Maug* 1227 *Bengal era; the* 1*st Maug* 1228 *Fussily; the* 9*th Maug* 1228 *Willaity; the* 1*st Maug* 1877 *Sumbut; and the* 14*th Rubbi-us-Sanee* 1236 *Higeree.*

Preamble.

WHEREAS the powers now vested in assistants to the magistrates by Section 20, Regulation IX. 1807, do not enable them to afford that aid to the magistrates which the state of public business in many districts requires, it is advisable to authorize in certain cases an increase of those powers. It is also deemed expedient, with a view to the speedy trial and punishment or acquittal of persons charged with petty offences, and to the due administration of criminal justice in cases of a trivial nature, to empower the Hindoo and Mahomedan law officers of the *zillah* and city courts, and the *sudder ameens*, to try and determine such cases when referred to them by a magistrate; and to guard against the inconvenience which has been experienced from the unlimited privilege at present exercised of appealing in *foujdaree* cases; and whereas it has been found expedient to rescind clause second, and such parts of clause first, Section 12, Regulation XXII. 1816, as require that persons considering themselves aggrieved by the assessment authorized to be levied for the maintenance of the *chokeydars* of police, shall present a petition to the magistrate or joint magistrate on stampt paper; and to authorize the judges holding the sessions of jail delivery to report upon any abuses or irregularities which may appear to them to exist in the management and collection of the assessment levied for the support of *chokeydars* of police; and whereas there is reason to believe that persons, being the subjects of foreign states, often enter the territories of the British Government in large bodies, under the assumed character of travellers of rank and distinction, for the sole purpose of robbery and plunder, and as it is necessary to vest the *zillah* and city magistrates and joint magistrates with sufficient powers to prevent such practices; the following rules have been enacted, to be in force from the date of their promulgation throughout the territories subject to the presidency of Fort William.

Nizamut Adawlut to report on qualifications of assistants to magistrates, in cases of accumulation

II. *First.* Whenever the accumulation of judicial business in a *zillah* or city may render it impracticable for a magistrate to discharge it with sufficient despatch, and the court of Nizamut Adawlut may be of opinion, either in consequence of a report from the magistrate

of business in *zillah* and city courts.

trate of such *zillah* or city, or from any other information before them, that the assistant of such magistrate is duly qualified by his experience, industry, and abilities, to be entrusted with the special powers described in the third clause of this section; the Nizamut Adawlut shall report accordingly to Government.

Governor General in Council empowered to invest such assistants with the special powers described in clause third of this regulation.

Second. On the receipt of such report from the Nizamut Adawlut, or upon any other information before Government, it shall be competent to the Governor General in Council to invest such assistants with the special powers described in the following clause, and information shall be communicated in every instance in which such powers may be vested in an assistant, to the Nizamut Adawlut, to the court of circuit, and to the *zillah* or city magistrate.

Information in such instances to be communicated to the magistrate, court of circuit, and Nizamut Adawlut.

Section 20, Regulation IX. 1807, modified, and additional powers vested in assistants to magistrates.

Third. Section 20, Regulation IX. 1807, is hereby modified, and in addition to the powers vested in the assistants to the *zillah* and city magistrates, by the regulations heretofore in force, they may be specially empowered, in all cases referred to them in which an individual may be convicted of any criminal offence punishable under the Mahomedan law and the regulations, for which the penalties authorized by the section above quoted may appear insufficient, and for which a more severe punishment than six months imprisonment with thirty ratans, or a fine of two hundred rupees, may not have been specially prescribed, to pass sentence of imprisonment, not exceeding six months, with corporal punishment not exceeding thirty ratans, in cases in which corporal punishment by stripes is authorized by the regulations, or in other cases with a fine not exceeding two hundred rupees, commutable, if not paid, to a further period of imprisonment, not exceeding six months, so that the entire period of imprisonment, under the sentence of an assistant, shall in no instance exceed one year.

Assistants to magistrates in cases requiring a more severe punishment than that authorized by the preceding section, not to pass sentence, but submit their proceedings to the magistrate.

Fourth. In any case referred to the assistant of a *zillah* or city magistrate under the regulations in force, in which the offence proved against the prisoner may appear to require a more severe punishment than he is by the foregoing clause authorized to adjudge, he shall not pass any sentence, but shall submit his proceedings to the magistrate, who, after holding any further proceedings he may deem necessary, will, if satisfied of the guilt of the prisoner, either pass sentence on him, under Regulation XII. 1818, and the general regulations in force, or will commit or hold him to bail for trial before the court of circuit, according to the nature and circumstances of the case.

Who will decide according to the general regulations.

Rules by which assistants are to be guided in deciding on cases thus referred to them.

Fifth. The rules contained in Sections 21. and 22. of Regulation IX. 1807, are to be considered applicable to all cases referred to the assistants, of the description specified in this section.

Magistrates may recal cases referred to their assistants.

Sixth. The magistrates are moreover at all times authorized to recal from their assistants any depending cases, which may have been referred to them under the present or former regulations, and which for the more speedy administration of justice, or for any other reason, the magistrates may deem it proper to determine themselves in the first instance.

In cases of death, removal, or resignation of assistants vested with special powers, their successors not to exercise those powers unless authorized by Government.

Seventh. Upon the death, removal, or resignation of any assistant, who may have been invested with special powers under the provisions of this regulation, the person succeeding to the office of assistant, shall in no case be entitled to exercise such special powers without the previous sanction of the Governor General in Council; and it shall at all times be competent to the Governor General in Council, to revoke the special powers, which may have been entrusted to the assistant of a *zillah* or city magistrate under this section, for any cause which, in the opinion of the Governor General in Council, may render the adoption of that measure expedient.

The Governor General in Council declared competent to revoke the special powers entrusted to an assistant.

III. *First.* The *zillah* and city magistrates are authorized to refer for trial to the Hindoo and Mahomedan law officers of their respective courts, all complaints or charges brought before them for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and all charges of petty thefts, when unattended with any aggravating circumstances.

Magistrates may refer petty complaints to their native law officers.

And also cases heretofore referrible to assistants in the mode prescribed by the existing regulations.

Second. The magistrates of the *zillah* and city courts shall be competent to refer to their law officers any criminal cases, which they are already authorized by former regulations to refer to their assistants; and in the mode of making the reference, and in the subsequent

quent stages of the proceeding, the magistrates and the law officers shall be guided by the provisions hitherto in force relative to such cases.

Such law officers empowered to exercise the powers vested in assistants to magistrates under the regulations in force.

Third. The law officers of the *zillah* and city courts, in the decision of criminal cases so referred to them, are hereby authorized to exercise the same powers as those vested in the assistants to the magistrates, by Section 20, Regulation IX. 1807; and by the other regulations therein referred to; that is, in cases referred to them for trial, they shall not sentence a person convicted of abusive language, or calumny, or inconsiderable assault or affray, to a more severe sentence than fifteen days imprisonment, and a fine of fifty rupees with an eventual commutation, if the fine be not paid, to further confinement for fifteen days more, making the entire term of imprisonment, if the fine be not paid, one month of thirty days. Nor shall they sentence a person convicted of petty theft to a more severe corporal punishment than thirty ratans, and imprisonment for a period of one month. Persons sentenced to imprisonment by the law officers shall not, during their imprisonment, be confined in irons or in fetters, except in cases in which the misconduct of such individual, during his imprisonment, shall appear to the magistrate to render such measure necessary for his safe custody.

Exposition of the rules referred to in such cases.

Persons imprisoned under sentences of the law officers not to be confined in irons or fetters, unless the magistrate considers such a measure necessary.

Fourth. The law officers of the *zillah* and city courts shall forward to the magistrates, on the fifth day of each month, a statement shewing the manner in which the cases referred to them may have been disposed of, in order that the same, after having been carefully inspected by the magistrates, with the view of noticing and eventually correcting any irregularities, may be incorporated in the periodical reports required to be submitted to the superior courts.

Law officers to furnish the magistrates with monthly statements of decisions passed by them.

IV. The foregoing provisions are hereby declared to be equally applicable to any of the *sudder ameens*, who may be empowered under Section 5, Regulation II. 1821, to try civil suits exceeding in value or amount the sum of one hundred and fifty rupees, and likewise to all *sudder ameens* whether vested with such powers or not, who may be appointed to the stations of the joint magistrates, and the latter officers are hereby authorized to employ such *sudder ameens* in the manner above specified.

Foregoing rules applicable to *sudder ameens* empowered under Section 5, Regulation II. to try civil suits exceeding one hundred and fifty rupees, and to those appointed to the stations of joint magistrates.

V. *First.* No appeal shall be admitted from the order of an assistant or a *sudder ameen* in cases referred to them of a criminal nature by the magistrate, or joint magistrate, unless preferred within the period of one month from the date of such order. Nor shall any appeal from the order of a magistrate or joint magistrate be admitted, unless preferred to the court of circuit at the *sudder* station, within the period of one month from the date of the order, or to a judge of circuit holding the sessions next ensuing after such order shall have been passed, unless it shall be proved that the petitioner was prevented, by circumstances totally beyond his control, from presenting his petition within the prescribed period.

Limitation of time for appeals from decisions of assistants and *sudder ameens*, and from the orders of the magistrates to the courts of circuit.

In what cases petitions of appeal may be received after the limited time.

Second. In calculating the period of one month above specified, the courts shall be guided by the principles of the rules contained in clause tenth, Section 8, Regulation XXVI. 1814.

How magistrates are to be guided in calculating the period above adverted to.

VI. *First.* The whole of clause second, and such parts of clause first, Section 12, Regulation XXII. 1816, as require that petitions of appeal from the assessment fixed by the *punchayet* for the maintenance of *chokeydars* of police, shall be presented on stampt paper, are hereby rescinded.

Rules requiring that petitions of appeal against *chokeydaree* assessments fixed by *punchyet* be written on stampt paper, rescinded.

Second. The magistrates and joint magistrates are empowered and required, notwithstanding any thing to the contrary contained in Section 19, Regulation XXVIII. 1814, to receive on unstampt paper, all petitions which may be preferred to them by persons considering themselves aggrieved by the assessment, which may have been fixed by the *punchayet* appointed under the provisions of Section 9, Regulation XXII. 1816.

Magistrates and joint magistrates empowered to receive such petitions on unstampt paper.

Third. When petitions of the above nature shall be presented to a magistrate or joint magistrate, he shall proceed upon them as directed in clause first, Section 12, Regulation XXII. 1816. It shall however be competent to the judges of circuit holding the jail delivery, on the receipt of information leading them to be of opinion, that the rate of assessment is too high, or otherwise essentially wrong or defective in any respect, to report their sentiments on the subject to Government, in order that after making such further inquiries

And to proceed on them as directed in clause first, Section 12, Regulation XXII. 1816.

Judges of circuit holding jail delivery may report to Government any cases of improper assessment.

inquiries as may be necessary, suitable measures may be adopted for the revision or correction of the assessment.

Rules for preventing subjects of foreign states entering the British territories under fictitious characters for unlawful purposes.

VII. *First.* Whereas persons being the subjects of foreign states, and assuming the fictitious characters of rajahs or of natives of distinction, or of pilgrims, have frequently entered into the British territories, or have assembled together in armed bodies, for the purpose of committing robberies or other crimes within those territories, the following rules have been enacted, within a view to prevent the recurrence of those practices.

Darogahs empowered to detain such persons, and unless they receive a satisfactory account may either report or send them to the magistrates.

Second. In addition to the powers vested in *darogahs* of police, by the several clauses of Section 20, Regulation XX. 1817, with regard to the apprehension of all vagrants and suspicious persons, they are hereby empowered to detain all persons travelling in bodies through their jurisdictions, or assembling therein under circumstances leading to the suspicion that they have assumed a fictitious character, and that they are in reality persons of the description mentioned in the preceding clause; and unless on examination they shall be able to give a satisfactory account of themselves, the *darogahs* shall, without delay, either report to the magistrates the circumstances under which they may have been detained, or in cases of an emergent nature, shall forward such individuals to the magistrates.

Darogahs how to proceed in cases when suspicion only attaches to such persons, although no sufficient cause for their detention exist.

Third. If a *darogah* of police, acting under the discretion vested in him by the preceding clause, shall not see sufficient cause, after the examination of the persons suspected, to send them to the magistrate, or to detain them until the orders of the magistrate shall be received, but shall nevertheless entertain suspicions of their real character and intentions, he shall depute one or more police officers to watch their proceedings in passing through his jurisdiction, and shall notify the same to the adjoining police division, in order that the same precautions may be adopted and followed up.

Rules for the guidance of magistrates in the disposal of persons sent in by the *darogahs*.

Fourth. If a *darogah* of police shall forward to the magistrate any persons travelling through, or assembling in his division, under suspicious circumstances, the magistrate having duly inquired into the grounds of their arrest, shall either release them, or adopt the precautionary measures directed in the preceding clause, or, if they appear to be travelling without any reasonable object, and to be inhabitants of a remote district, or subjects of a foreign state, he shall compel them to return, under a suitable guard, from station to station, to the district or territory from which they may appear to have proceeded.

Landholders and others declared responsible for an early communication of the resort to their villages of suspicious persons.

Fifth. The principal persons residing in villages, whether landholders or farmers, or other local managers, or *munduls*, *putwarees*, or other heads of villages, and also *chokeydars* and village guards of every description, are hereby declared responsible for the early and punctual communication to the officers of the nearest police station, of the resort to, or passage through their villages, of any considerable body of strangers, or of the assemblage of such bodies within the limits of their villages, together with any particulars which they may be able to collect as to the alleged object of their assemblage or journey, or any suspicion which may arise as to their real character and intentions. Any landholder or farmer or other local manager, or *mundul*, *putwaree*, or other heads of villages, who shall wilfully neglect or delay to give the information above required, shall, on proof of such neglect, after an inquiry similar to that directed by Section 13, Regulation IX. 1808, be sentenced to pay a fine, or to suffer imprisonment not exceeding the limitation therein specified; and any *chokeydar*, or other village guard, who may be guilty of such neglect, shall be liable to the punishment which the magistrates are authorized to inflict under the provisions of Section 6, Regulation III. 1812.

Penalty to which they are declared liable, should they omit giving the required information.

Punishment to which *chokeydars* are declared liable in case of neglect of duty.

A. D. 1824. REGULATION XIII.

A REGULATION *for making further Provisions relative to the Office of Sudder Ameen.*—PASSED *by the Governor General in Council, on the 22d July* 1824; *corresponding with the 8th Sawun* 1231 *Bengal era; the 11th Sawun* 1231 *Fussily; the 9th Sawun* 1231 *Willaity; the 11th Sawun* 1881 *Sumbut; and the 21th Zekaad* 1239 *Higeree.*

Preamble.

WITH a view to the better administration of civil justice in suits referred for trial and decision to *sudder ameens*, as well as for the more certain and adequate compensation of these officers in certain cases, it has been deemed expedient to discontinue the mode of paying them by the institution fee, or stamp duty substituted for it, in suits decided by them, or adjusted before them by *razeenamahs* of the parties; and to grant them a fixed allowance from Government, calculated to ensure a faithful discharge of duty and afford them a liberal reward for their services; it has, at the same time, appeared proper to render their services more available to the judges of the *zillah* and city courts: the following rules have accordingly been enacted, to be in force from the date of their promulgation throughout the territories subject to the presidency of Fort William.

Parts of Regulation XXIII. 1814, and Regulation II. 1821, rescinded.

II. *First.* Such parts of Regulation XXIII. 1814, and of Regulation II. 1821, or of any other regulation in force, as authorize *sudder ameens* to receive as a compensation in original suits and appeals decided by them, or adjusted before them by *razeenamah*, the amount of the institution fee, or stamp duty substituted for such fee, on the suits or appeals so decided or adjusted, are rescinded, and shall have no operation after the 30th day of April, 1824.

Sudder ameens to receive monthly allowances in lieu of fees.

Second. From the 1st day of May, 1824, the *sudder ameens* shall in lieu of the fee and compensation abovementioned, receive from Government such monthly allowances as may be fixed for them respectively, by the orders of the Governor General in Council.

Parts of Section 2, Regulation XXIII. 1814, and Section 4, Regulation III. 1817, rescinded.

III. *First.* Such parts of Section 2, Regulation XXIII. 1814, and Section 4, Regulation III. 1817, or of any other regulation in force, as restrict plaintiffs or appellants in original suits, or appeals adjusted by *razeenamah* before *sudder ameens*, from receiving back the whole or a portion of the institution fee paid by them, in pursuance of the general rules prescribed in the first and second clauses of Section 11, Regulation XIII. 1810, for encouraging the adjustment of depending suits and appeals by *razeenamah*, are hereby rescinded.

Stamp duties in original suits and appeals referred to *sudder ameens* how to be disposed of when such suits are adjusted by *razeenamah*.

Second. In original suits and appeals referred to *sudder ameens*, and adjusted by *razeenamah*, after the 1st May, 1824, if the *razeenamah* be filed before the pleadings are completed and read, the full amount of the stamp duty paid on the institution of the suit or appeal, shall be returned to the party who may have paid the same, or to his legal representative; or a moiety of the stamp duty so paid shall be returned, if the *razeenamah* be filed after the pleadings have been completed and read.

A monthly statement of stamp duty receivable by the parties entitled thereto to be furnished by the *sudder ameens*.

Third. The several *sudder ameens* are required to submit to the judges and registers, with whom they are respectively stationed, a monthly statement of the stamp duty receivable by the parties entitled thereto under the above clause; and the judges, after ascertaining

ing the correctness of such statements, will take the necessary measures for causing payment to the parties entitled thereto in pursuance of Section 25, Regulation XXVI. 1814.

Part of Section 68, Regulation XXIII. 1814, and Section 6, Regulation XXVIII. 1814, rescinded.

IV. *First.* So much of Section 68, Regulation XXIII. 1814; Section 6, Regulation XXVIII. 1814, or of any other regulation in force, as directs that no suits shall be referred for trial and decision to a *sudder ameen* in which the plaintiff may have been admitted to sue *in formâ pauperis*, is hereby rescinded.

The judge may refer suits *in formâ pauperis* to a *sudder ameen*.

Second. When a plaintiff may have been admitted by the judge or register of a *zillah* or city court, to institute his suit *in formâ pauperis*, under the rules for paupers contained in Regulation XXVIII. 1814, and the suit may, in other respects, be referrible to a *sudder ameen*, it shall be competent to the judge to refer the same for trial and decision by one of the *sudder ameens* attached to the *zillah* or city court, or stationed with the register in any other part of his jurisdiction; and the suit so referred shall be proceeded upon by the *sudder ameen* as in other suits referred to him, subject to the provisions contained in Regulation XXVIII. 1814.

Certain provisions in Regulation XXVIII. 1814, declared applicable to parties in appealed cases referred for trial to *sudder ameens*.

Exception.

Third. The provisions in the regulation abovementioned respecting pauper defendants in original suits, as well as those respecting pauper appellants and respondents in appealed cases, shall likewise be considered applicable to defendants in original suits, and to appellants and respondents in appealed cases referred for trial to *sudder ameens*: but no person shall be admitted by a *sudder ameen* to prosecute or defend an original suit or appeal, *in formâ pauperis*, without the written order of the *zillah* or city judge, or of the register with whom the *ameen* may be stationed, authorizing the admission of the party as a pauper under the provisions of Regulation XXVIII. 1814.

Provision in Section 5. of the same regulation extended to *sudder ameens*.

Fourth. The judges and registers who are empowered by Section 5. of the regulation abovementioned, to employ an authorized officer of the court in taking the examinations of parties and witnesses for the purposes therein specified, may however employ the *sudder ameens* attached to their respective courts in taking such examinations, and generally in making the inquiries provided for by that regulation.

But no final order to be passed for admission of a pauper suit without the sanction of the judge or register.

But no final order for the admission of a pauper shall be passed by a *sudder ameen*, nor shall the commitment of pauper plaintiffs to close custody, in pursuance of Section 11, Regulation XXVIII. 1814, be carried into execution by a *sudder ameen*, without the sanction of the judge or register, to whom it may belong to enforce the decision of the *ameen* in such cases.

The whole of clauses 2, 3, 4, 5, and 6, of Section 76, Regulation XXIII. 1814, still in force except the 5th, which is hereby rescinded.

V. By the first clause of Section 76, Regulation XXIII. 1814, it is provided, that "in the trial of regular suits by the *zillah* or city judges, or in miscellaneous cases, whenever the adjustment of accounts regarding the execution of decrees, and mercantile or revenue transactions, or the investigation of disputes between landlord and tenant, or of other special matters of account, fact, or usage, may be requisite; and such adjustment or investigation, if conducted by the judge himself, would occupy a larger portion of his time than could be conveniently devoted to it, the judge is hereby authorized to direct any of the *sudder ameens* under his jurisdiction to make such adjustment, or investigation." The second, third, fourth, fifth, and sixth clauses of the section above mentioned, contain further provisions relative to the cases therein stated; and the whole of these clauses shall be still in force, except the fifth; which, in consequence of the salary to be hereafter received by *sudder ameens* from Government, is hereby rescinded; provided however that if any necessary expense be incurred in making the inquiries or adjustments referred to, it shall be competent to the judge, on the completion of the inquiry or adjustment, to order payment of the amount of such necessary expenses by one or both of the parties in the case as may appear just and proper.

Proviso.

A. D. 1827. REGULATION IV.

A REGULATION *for extending, in special Cases, the Powers of Sudder Ameens in the Trial and Decision of civil Suits.*—PASSED *by the Governor General in Council on the 27th December* 1827, *corresponding with the* 13*th Poose* 1234 *Bengal era; the* 24*th Poose* 1235 *Fussily; the* 14*th Poose* 1235 *Willaity; the* 10*th Poose* 1884 *Sumbut; and the* 7*th Jumadee-us-Sanee* 1243 *Higeree.*

Preamble.

WHEREAS the heavy accumulation of civil suits in many of the *zillah* and city courts, renders it essential to the administration of justice that the powers at present exercised by the *sudder ameens* should be augmented: and whereas it has been deemed expedient to rescind such parts of the regulations as declare, that no suit shall be referred for trial and decision to a *sudder ameen* in which a British European subject, or a European foreigner, or an American, may be a party; the following rules have been enacted, to be in force, from the date of their promulgation, throughout the territories subject to the presidency of Fort William.

The Sudder Dewanny Adawlut competent to invest *sudder ameens* with powers to try original suits, in which the amount of claim may not exceed a thousand rupees.

II. *First.* It shall be competent to the Sudder Dewanny Adawlut to invest any person, exercising the functions of a *sudder ameen* at the station where the *zillah* or city court is held, with the power to try and determine original suits in which the value or amount of the claim may not exceed one thousand rupees.

Parts of regulations prohibiting judges from referring to the *sudder ameens* any suits in which a British European subject, or a European foreigner, or an American may be a party, rescinded.

Second. Such parts of Section 68, Regulation XXIII. 1814, clause first, Section 7, Regulation XXIV. 1814, clause second, Section 5, Regulation II. 1821, or of any other regulation, as prohibit the *zillah* and city judges from referring to a *sudder ameen* any suit in which a British European subject, or a European foreigner, or an American may be a party, are hereby rescinded.

Judges may refer to a *sudder ameen*, suits in which the claim may not exceed a thousand rupees.

Third. In addition to the powers vested in the *sudder ameens* under the provisions of Section 68, Regulation XXIII. 1814, and clause second, Section 7, Regulation XXIV. 1814, and Section 5, Regulation II. 1821, the *zillah* and city judges are hereby authorized to refer to a *sudder ameen* duly empowered, under the first clause of this section, any depending civil suits in which the value or amount of the claim, calculated according to the provisions of Section 14, Regulation I. 1814, Section 23, Regulation XXVI. 1814, and Section 5, Regulation XIX. 1817, may not exceed one thousand rupees.

Suits referred to a *sudder ameen* under the preceeding clause, shall be tried under the provisions of Regulation XXIII. 1814.

Fourth. Suits referred to a *sudder ameen* under the preceding clause, in which the value or amount of the claim may exceed five hundred rupees, shall be received, tried, and determined in conformity with the provisions of Regulation XXIII. 1814; and shall be open to appeal or not to the *zillah* or city judge, according to the rules prescribed in that regulation.

Appeals from the decision of *sudder ameens* in cases exceeding five hundred rupees, shall not be referred to a register.

Fifth. Appeals from the decisions of *sudder ameens* in which the value or amount of the claim may exceed five hundred rupees shall not be referred to a register, and the decision of the *zillah* or city judge, on such appeals, shall be final, unless the provincial court shall see sufficient reason for admitting a second or special appeal, under the provisions contained in Section 4, Regulation II. 1825, and the regulations therein declared applicable to such appeals.

The provincial courts to report to Government in future the proposed appointment of an additional *sudder ameen*, or a reduction in the number of *sudder ameens*.

III. Section 61, Regulation XXIII. 1814, authorizing the provincial courts to exercise their discretion in diminishing or augmenting the number of *sudder ameens*, is hereby rescinded. Whenever the provincial courts, with reference to the state of the civil business and other local circumstances, may hereafter consider the appointment of an additional *sudder ameen* at any *zillah* or city station desirable, or a reduction in the number of *sudder ameens* which may have been appointed expedient, they shall report the grounds of their opinion for the consideration and orders of Government.

A. D. 1793. REGULATION VII*.

A REGULATION *for the Appointment of Vakeels or native Pleaders, in the Courts of civil Judicature in the Provinces of Bengal, Behar, and Orissa.*—PASSED *by the Governor General in Council, on the 1st May* 1793; *corresponding with the 21st Bysaak* 1200 *Bengal era; the 6th Bysaak* 1200 *Fussily; the 21st Bysaak* 1200 *Willaity; the 6th Bysaak* 1850 *Sumbut; and the 19th Ramzaan* 1207 *Higeree.*

Preamble.

IN *the courts of civil judicature in the British territories in Bengal, the parties in suits have hitherto had the option of pleading their causes in person, or appointing such* vakeels *or agents for that purpose as they have thought proper. The generality of these* vakeels *have been either private servants or dependants of the parties deputed to plead the particular cause in which their employers were engaged; or men who followed the business of a* vakeel *to obtain a livelihood, and appeared in the courts of justice, or wherever the concerns of their constituents required their attendance. The* yakeels *of the first description were for the most part necessarily unacquainted with the constitution and forms of the courts. They were consequently exposed to the intrigues of the ministerial officers, who not only harassed and extorted money from them, by an abuse of authority in the execution of the common process of the courts, but often impressed them with an idea that it was in their power to influence the decision of the judges, and converted the deception to their private advantage. These* vakeels *being unaccustomed to judicial proceedings, protracted the trials by producing unnecessary exhibits, stating irrelevant questions to the witnesses, and summoning persons to give evidence, whose testimony was unessential to the developement of the merits of the case. The very slight knowledge which they in general possessed of the Mahomedan or Hindoo law, and their still more limited acquaintance with the regulations passed by the British Government, (upon which the security of the persons and property of the inhabitants of these provinces chiefly depends,) rendered them incapable of urging the best arguments in support of the claims of their constituents, or of judging whether the decisions and proceedings of the courts were conformable to the laws and regulations, or otherwise. The* vakeels *of the second description, although better acquainted with the practice of the courts than the first, were equally unfit for their situations. They assumed and relinquished the occupation, without apprising the courts in which they acted. When they appeared in the capacity of* vakeels, *no enquiries were made to ascertain whether they were qualified for the employment; nor were there any rules prescribed as a security to their constituents for the diligent and faithful performance of their trusts. Equally with the first description of* vakeels, *they were little versed in the laws and regulations of the country, and not having the protection of a public character, and their situations in the court not being defined by any regulations of Government, they were subject in the same degree to the intrigues and assumed influence of the ministerial officers of the courts, and unable to protect their employers from oppression and exaction. On the other hand, the allowances of these* vakeels *not being fixed by any public regulations, and as they were generally entertained upon a fixed salary, their demands were frequently exorbitant, and when engaged, it became their interest to protract, instead of expedite the decision of the suit, as their salary ceased with the termination of it. Pleaders of the above descriptions not only rendered a speedy and impartial administration of the law impracti-*

This entire regulation is rescinded by Section 2, Regulation XXVII. 1814.

cable,

cable, but were at all times liable to be made the cloaks to intrigue and injustice. To establish security of property, and protect individuals in the enjoyment of the privileges and immunities which have been granted to them, many regulations must necessarily be enacted. The great body of the people, although they will feel the benefit of their operation, must necessarily be precluded by their pursuits and occupations in life from attending the courts of justice, or acquiring a sufficient knowledge of the laws and regulations, to qualify them for pleading their own causes. It is therefore indispensably necessary for enabling the courts duly to administer, and the suitors to obtain justice, that the pleading of causes should be made a distinct profession; and that no persons should be admitted to plead in the courts but men of character and education versed in the Mahomedan or Hindoo law, and in the regulations passed by the British Government; and that they should be subjected to rules and restrictions calculated to secure to their clients a diligent and faithful discharge of their trusts. Pleaders of this description will urge the best arguments for and against every claim; and it is essential to the due administration of justice, that such arguments should be offered to the judges. Their judgment cannot then often err, and when it does, the error will be invariably pointed out to the higher courts. The pleaders therefore, on either side, whilst they will bring the merits of every case to light, and collect into one point of view the information necessary to enable the courts to form their opinion upon it, will be a check upon them by exposing every deviation from the law in their judgments. As individuals will in general commit the management of their suits to the pleaders who may be best qualified to plead them, the parties in suits should have the option of employing such of the pleaders as they may think proper; and as an additional security for the zeal and fidelity of the pleaders, the parties ought to have the power of withdrawing the management of their causes from the pleaders whom they may entertain, whenever they may be dissatisfied with their conduct. The advantages of the pleaders will then be proportionate to their zeal, abilities, and integrity, at the same time that their exertions to acquire reputation and emolument will necessarily conduce to the improvement of the judicial system. That the pleaders may not be deterred from pleading the causes of their clients with becoming freedom, and that men of education and respectable character may be solicitous to be admitted as pleaders in the courts, their appointments ought to be secured to them as long as they conform to the regulations under which they act; and they should not be removable until they have been proved guilty of a breach of those regulations to the satisfaction of the Sudder Dewanny Adawlut. By the erection of tribunals constituted upon the principles of the courts of justice established under the regulations passed on this date, and confining the pleading of suits to persons possessing the qualifications and acting under the rules and restrictions hereafter enacted, individuals will be satisfied that personal solicitation and intrigue (the necessary result of a want of courts constituted upon such principles as to enable persons of every description to procure a speedy and impartial administration of the law) is not requisite either to obtain their own rights, or to defend themselves from oppression, or the unjust claims of others. They will feel that they have an impartial and all powerful protector in the laws, and that, through the means of the public pleaders, they can at all times command the exercise of the judicial powers of Government lodged in the courts, for the redress of any injuries which they may sustain either in their persons or property.

Sudder Dewanny Adawlut empowered to appoint a sufficient number of pleaders to plead the causes in the civil courts of judicature.

II. The Sudder Dewanny Adawlut is empowered to appoint from time to time, such a number of pleaders of the Mahomedan or Hindoo persuasion, as may appear to them necessary to plead the causes of the parties in suits in the Sudder Dewanny Adawlut, the provincial courts of appeal, and the courts of dewanny adawlut *in the several* zillahs, *and the cities of Patna, Dacca, and Moorshedabad.*

Sunnud to be granted to pleaders.

III. The Sudder Dewanny Adawlut is to cause a writing under the seal of the court, and attested by the register, to be delivered to each of the persons whom they may admit as pleaders in the several courts, specifying the name of the pleader, the date of his appointment, and the court in which he may be admitted, and empowering him to plead in it under the rules contained in this regulation, or such other regulations as the Governor General in Council may hereafter enact.

IV. Every pleader, previous to his being allowed to practise, is to take and subscribe the following oath before the court in which he may be admitted. "I A. B. solemnly swear, that I will truly and faithfully execute the duties of pleader of the Sudder Dewanny Adawlut (or the provincial court of appeal for the division of ——— ———, or the dewanny adawlut *of the* zillah *or city of ———,) to the best of my knowledge and judgment." And every six months, that is, on the 1st of January and the 1st of July in each year, the Mahomedan pleaders of the several courts are to take and subscribe the following oath, before the court in which they may respectively practise. "I A. B. solemnly swear, that from the 1st January to the 30th June last, (or from the 1st July to the 31st December last,) I have truly and faithfully executed the duties of pleader in the Sudder Dewanny Adawlut (or the provincial court of appeal for the division of ———, or the* dewanny adawlut *of the* zillah *or city of ———,) to the best of my knowledge and judgment.*

Oath to be taken by pleaders upon their first admission.

Half yearly oath to be taken by the Mahomedan pleaders.

V. The pleaders are to be selected from amongst the students in the Mahomedan college at Calcutta, and the Hindoo college at Benares, who may be qualified, and be desirous of being admitted to plead in any of the courts. If the colleges shall not furnish a sufficient number of pleaders, the Sudder Dewanny Adawlut is to admit any other persons, provided they be Mahomedans or Hindoos, previously however ascertaining that they are men of good character and liberal education, and giving a preference in all cases to persons of this description who have been bred to the study of the Hindoo or Mahomedan law.

What descriptions of persons are to be selected for pleaders.

VI. That the pleaders in the several courts, as well as all other persons, may have it in their power to render themselves acquainted with the regulations enacted by the British Government, there shall be kept for public inspection in the several courts of judicature in Bengal, Behar, and Orissa, printed copies of all such regulations, with translates in the Persian and Bengal languages, bound up with an index as directed in Section 11, Regulation XLI. 1793. Until the regulations that may be passed in each year are so bound up, the separate copies of each regulation, with the translates, as they may be printed and circulated to the courts, are to be exposed as above directed. The regulations are to be deposited upon a table, to be expressly allotted for that purpose in some part of the court-room, and to lie for public inspection every day, Sunday excepted, from the hour of nine in the morning until three in the afternoon; and during that time, the pleaders of the courts, and all other persons, are to be at liberty to refer to the regulations, or take copies or extracts from them in the court-room.

A copy of all regulations, with the translates, to lie for public inspection in the courts.

VII. Upon a pleader agreeing to undertake the prosecution or defence of a suit, the party entertaining him is to present him with four annas as a retainer, which is to preclude him from being employed in the same cause against the person so retaining him. The pleader, immediately upon receiving the retainer, is to give a written acknowledgment for it, specifying the date on which it may be delivered to him. If any pleader shall receive such retaining fee, and afterwards refuse or omit to carry on the suit of his client, he shall be dismissed from his office. The retainer is to be exclusive of the fees specified in Section 9.

Four annas to be presented to a pleader as a retainer.

Pleaders receiving a retainer, and not carrying on the suit, to be dismissed.

VIII. When a party in a cause shall have retained a pleader, and taken his receipt for the retainer, he is to execute to him a vakalutnamah, *constituting him pleader in the cause, and authorizing him to prosecute or defend the plaint or appeal, (according as the party may be plaintiff or appellant, defendant or respondent,) and binding himself to abide by and confirm all acts which such pleader may do or undertake in his behalf in the cause, in the same manner as if he had been personally present and consenting. The party is to sign the instrument with his name, or put his mark to it, (if he shall be unable to write his name,) and (if he shall have a seal) affix his seal to it, in the presence of two credible witnesses, who are likewise to attest it in the same manner.*

Parties to execute a vakalutnamah *to their pleaders, vesting them with the powers herein mentioned.*

How to be signed, sealed, and attested.

IX. The pleaders of plaintiffs and defendants in the zillah *or city courts, and of appellants and respondents in the provincial courts of appeal, and the Sudder Dewanny Adawlut, are to be allowed as fees for pleading the causes of their clients, the following per centage on the sum of money, or the value of any personal property, which may constitute the subject of the suit.*

Fees to be allowed to pleaders in the zillah *and city courts, the provincial courts of appeal, and the Sudder Dewanny Adawlut.*

On suits for money or personal property.

	Sicca Rupees.		
On sums not exceeding	One Thousand	Five	per Cent.
	Five Thousand	Four	
	Ten Thousand	Three	
	Twenty-five Thousand	Two	
	Fifty Thousand	One	
On sums above	One Lack	Three-quarters	
	A Lack	One half	

On suits for land subject to the payment of public revenue, and on land exempt from the payment of public revenue; and on tanks, gardens, or other real property not being land of the two descriptions above mentioned.

To whom the fees of the pleaders and other costs of suit are to be ultimately charged.

The pleaders are to receive the above fees on the amount of the annual jumma *payable to Government, if the suit be for land subject to the payment of public revenue; and if it be for land held exempt from the payment of public revenue, on the amount of the annual produce. If the suit shall be for a house, tank, garden, or other real property, not being land of the two descriptions above mentioned, the pleaders are to receive as fees, the above per centage on the estimated value of it. If the decree shall be given against the defendant or respondent, and the whole of the money or property which may be demanded by the plaintiff or appellant, shall be decreed to him, a sum equal to the whole of the fees of his pleader, shall be adjudged to the plaintiff or appellant, in additum to the costs which may be awarded to him. But if only a part of the money or property claimed, is decreed to the plaintiff or appellant, a sum bearing the same proportion to the annual produce, if that part be land held exempt from the payment of public revenue, or to the annual public revenue, if that part be land subject to the payment of revenue to Government, or, if that part be money or some specific thing, to the money or value of the thing decreed as the fee did to the demand laid in the complaint or appeal, is to be decreed and added to the costs which may be awarded to the plaintiff or appellant; and the sum so added is to be recovered from the defendant or respondent, together with the fees of his own pleader, in the same manner as all other sums which may be decreed are ordered to be recovered. If the suit of the plaintiff or appellant shall be dismissed, whether upon an investigation of the merits of it, or otherwise, and a decree shall be accordingly given against him, he is to pay his own costs, and the fees of his pleader, and the fees of the pleader of the defendant or respondent, and such costs as the court may think proper to award to him; and the court is to levy the sum which may be so adjudged to be paid by the plaintiff or appellant, in the same manner as all other sums decreed by the court are ordered to be recovered.*

Courts enjoined to insert in their decrees all costs and expences paid or payable by the parties.

The judges of the zillah *courts, the provincial courts of appeal, and the Sudder Dewanny Adawlut, are enjoined to make it an invariable rule, to insert in their decrees all sums paid or payable by the parties on account of the costs or expences of the suit, whether for fees to pleaders, compensations to witnesses, subsistence money to* peons *deputed to serve summonses, or other account; and the parties are not to be liable to the payment of any costs or expences, excepting such as may be inserted in the decree. But no suit whatever shall be received in any* zillah *or city court, nor in any provincial court of appeal, nor in the Sudder Dewanny Adawlut, until the complainant or appellant shall have given good security for the payment of the fees of the pleaders whom he may employ. Upon his giving such security, the suit is to be received, and process is to be issued against the defendant, or respondent, who is likewise to be required to give security for the payment of the fees of the pleader whom he may entertain, in addition to any other security which may be required from him for the performance of the decrees or orders of the court.*

Fees of pleaders not payable until a decision in the cause is passed.

X. The fees of the pleaders are to be payable upon a decision being passed in the cause, whether upon an investigation of its merits, or otherwise, and not before. The fees are then to be forthwith levied by the court from the parties by whom the decision may declare them payable, nor shall the execution of the part of the decision of the zillah *courts, or the provincial courts of appeal, which may relate to the payment of the fees of the pleaders, be stayed or postponed, in consequence of an appeal being preferred from the decision, or on any other account whatsoever.*

If a pleader shall be removed from his office, or die, or resign, before the decision of a cause, to whom the fees are to be paid.

And if a pleader shall be removed from his office, or die, or resign, previous to the decision of any causes depending in which he may have been entertained, neither he nor his heirs are to be entitled to any fees on account of such causes, but they are to be paid to the persons who may act as pleaders for the parties when the causes may be brought to a decision.

XI. If a party in a suit in any of the courts of justice, shall be desirous of committing the pleading of his cause to two pleaders, and any two of the pleaders shall agree to undertake the suit, and to divide the authorized fees between them in an equal or any other proportion, it shall be permitted to the party to pay, and the pleaders to receive such fees, and the proportions in which the fees are to be divided between the pleaders, are to be specified in the vakalutnamah.

Parties at liberty to entertain two pleaders, and the fees to be divided between them, if any two pleaders shall consent to undertake the cause.

XII. If a party in a suit in any of the courts of justice shall be desirous of entertaining two pleaders, and shall of his own accord agree to pay to each of the pleaders the full fees allowed to pleaders by this regulation, it is permitted to the party to pay, and the pleaders to receive, such fees. But the opposite party in the cause, supposing him to be cast, shall only pay the fees of one pleader, or such part of them as the court may adjudge. The fees of the other pleader are to be considered as a separate expence, defrayable by the party entertaining him, for which he is not to be reimbursed in any case whatever.

Parties at liberty to entertain two pleaders, and to agree to pay them both the full fees.

But the opposite party, if cast, not to be charged with any part of the fees of the extra pleader.

XIII. If a suit shall be withdrawn before the plaint, or the petition of appeal, the answer, reply, and rejoinder, shall have been filed in court, the pleaders of the plaintiff and defendant, or the appellant and respondent, shall each be entitled to only half of the established fees. If a suit shall be withdrawn at any time after the plaint or the petition of appeal, the answer, reply, and rejoinder shall have been filed in court, the pleaders are to be entitled to the full fees, in the same manner as if judgment had been given in the cause. The fees in both of the abovementioned cases, are to be paid by the plaintiff or appellant withdrawing the suit, together with all the admitted costs incurred by the defendant or respondent, in consequence of the preferring the suit or appeal. If either party shall have employed two pleaders under the option given them in Section 11, *each pleader is to receive one half of what he would have received, had the suit been brought to trial. Should either party have entertained two pleaders under Section* 12, *the extra pleader is to receive only one half of the fees to which he would have been entitled had the cause been brought to a decision.*

Pleaders to receive only half of the established fees, in the event of a suit being withdrawn before the plaint, or appeal, answer, reply, and rejoinder, shall have been filed in court.

Pleaders to receive full fees, if the suit shall be withdrawn after the abovementioned papers have been filed.

XIV. The pleaders in the several courts, are permitted to demand and receive a fee of four annas for every petition which they may present, or motion that they may make in writing, to the court, provided that the motion or petition shall not relate to any suit depending before the court, wherein the person on whose behalf they may present such petition, or make such motion, may be a party. The fee above allowed shall be payable upon the court passing an order upon the petition or motion, and not before. But all petitions and motions presented or made in any of the courts, on behalf of parties in a suit in which the fees in Section 9. *may have been paid or may be payable, from the filing of the suit until a final decision upon it is passed, whether in the court in which it may be first instituted, or in appeal, and until that decision is enforced, are to be considered as paid for by the fee allowed to the pleaders in the abovementioned section; and the pleaders in the several courts are required to make all such motions, and do all such acts as their clients may require relating to any suit in which they may have received fees, after a decision shall have been passed, and until the suit shall be settled, and the final judgment be enforced.*

Pleaders allowed a fee of four annas for every petition or motion they may present, or make to the court, in the cases herein specified.

XV. Pleaders are to give written receipts for all accounts, writings, or documents, that may be delivered to them by their clients in the course of any process or suit. If a pleader shall refuse to return such accounts, documents, or writings, although some of them should concern him principally, the court, upon a petition being presented to them for that purpose by the owner of the papers withheld, is to cause them to be restored.

Pleaders to give receipts for all papers that may be entrusted to them by their clients.

XVI. If a pleader shall be guilty of disrespect to the court in open court, the court is empowered to impose a fine upon him not exceeding one hundred rupees, and to levy the amount by deducting it out of the fees that may become due to the offender, or by the process which is prescribed for enforcing decrees of the court.

Pleaders guilty of disrespect to the court liable to be fined.

Fine how to be levied.

XVII. Pleaders convicted of promoting and encouraging litigious suits, or of frauds, or of gross misbehaviour, although not relating to any cause in which they may be concerned, are to be suspended. The court is to report the grounds of the suspension within a

Pleaders convicted of litigiousness, frauds, or gross misbehaviour, to be suspended by the court to which they may be attached.

Court to report the suspension within a month to the Sudder Dewanny Adawlut.

Sudder Dewanny Adawlut to fine such pleader or not, and restore or dismiss him, as they may judge proper.

a month after it shall have taken place, to the Sudder Dewanny Adawlut, which court is either to fine such pleader or not, and allow him to resume his practice, or dismiss him from his office, according as they may think proper upon a consideration of the circumstances of the case.

Pleaders wilfully delaying the suit of their clients, liable to a prosecution, and to dismission by the Sudder Dewanny Adawlut.

XVIII. If a pleader shall wilfully delay the suit of his principal for his own advantage, he is to be liable to be prosecuted by him for damages; and, if he shall be convicted, the judge is to suspend him, and report the circumstances to the Sudder Dewanny Adawlut, which court, provided the charge be proved to their satisfaction, is to dismiss the offender from his office.

Pleaders not to receive any fee or reward whatever not authorized by the regulations,

under pain of being suspended by the court to which they may be attached, and dismissed.

XIX. Pleaders are not to demand or accept from their clients, any fee or sum of money, or any goods, or effects, or valuable consideration, for pleading their causes, besides the fees that they are or may be expressly authorized to demand and receive by this regulation, or such regulations as may be hereafter enacted. If a pleader shall be convicted before the court to which he may be attached, of acting contrary to the prohibition contained in this section, the court is to suspend him from the exercise of his functions, and report the circumstances to the Sudder Dewanny Adawlut, which court, if there shall appear to it sufficient cause for so doing, is to dismiss the offender from his office.

Pleaders of the same court to be allowed to act for each other in the cases, and under the provision, herein specified.

XX. In case of the temporary absence of a pleader from indisposition or other cause, the court may permit any other pleader of the court to act for such absent pleader, in any cause or causes in which he may be engaged, provided the parties by whom such absent pleader may have been entertained shall give their consent, by a writing under their seal and signature, and attested by two credible witnesses, to be filed in court.

Pleaders in one court, not to be allowed to act in another, without the orders of the Sudder Dewanny Adawlut.

XXI. The vakeels *attached to one court, are not to be allowed to plead in any other court, without the sanction of the Sudder Dewanny Adawlut.*

No pleader to be dismissed from his office but for incapacity or misconduct, proved to the satisfaction of the Sudder Dewanny Adawlut.

XXII. No pleader is to be dismissed from his office, but for incapacity or misconduct in the discharge of his public duty, or gross profligacy or misbehaviour in his private conduct, proved to the satisfaction of the Sudder Dewanny Adawlut. In cases in which it shall be proved to the satisfaction of any of the provincial courts of appeal, or the zillah *or city courts, that any pleader attached to their respective courts, is unqualified for his office from incapacity, or that he has committed any act which subjects him to dismission from his office, the court is to suspend such pleader from the exercise of his functions, and to certify all the papers and proceedings relating to the case to the Sudder Dewanny Adawlut, and wait the orders of that court.*

Sudder Dewanny Adawlut to appoint pleaders in the several courts to plead for Government, in suits which may be directed to be carried on at the public expence.

XXIII. The Sudder Dewanny Adawlut is to appoint one, two, or more of the authorized pleaders in the Sudder Dewanny Adawlut, the provincial courts of appeal, and the courts of dewanny adawlut *in the several* zillahs, *and the cities of Patna, Dacca, and Moorshedabad, to prosecute any suits in those courts respectively which may be directed to be carried on at the public expence by any regulation, or by a special order from the Governor General in Council.*

Oath to be taken by pleaders of Government, upon their appointment, and every six months.

XXIV. Every person who may be appointed a pleader for Government in any of the courts of judicature, is to take and subscribe the following oath before the court in which he may be appointed to plead. "I A. B. solemnly swear, that I will execute the duties of pleader for Government in the court of Sudder Dewanny Adawlut, (or the provincial court of appeal for the division of ————, or the dewanny adawlut *of the city or* zillah *of ————,) to the best of my knowledge and judgment." And every six months, viz. on the 1st of January, and the 1st of July in each year, the pleaders for Government who may be Mahomedans, are to take and subscribe the following oath before the court to which they may be respectively attached: "I A. B. solemnly swear, that from the 1st January to the 30th June last, (or from the 1st July to the 31st December last,) I have truly and faithfully executed the duties of pleader for Government in the Sudder Dewanny Adawlut, (or the provincial court of appeal for the division of ————, or the* dewanny adawlut *of the* zillah *or city of ————,) to the best of my knowledge and judgment."*

Sunnud of office to be granted to the pleaders for Government.

XXV. The Sudder Dewanny Adawlut is to cause a sunnud *under the seal of the court, and attested by the register, to be delivered to each of the pleaders for Government,*

in which shall be specified the name of the pleader, the date of his appointment, and the court in which he is to plead, and empowering him to plead therein under the rules contained in this regulation, or such other regulations as the Governor General in Council may hereafter enact.

What is to to be considered as authority to the pleaders of Government to plead a cause.

XXVI. The pleaders for Government are to undertake all causes which they may be directed to plead by orders from Government, or that may be directed by any regulation to be carried on at the public expence, upon receiving a special order for that purpose immediately from the Governor General in Council, or from any officer or officers empowered by any regulation to superintend such suits, and furnish them with instructions for the conduct of them. The order of Government, or of such officer or officers, is to be filed in the court, as the authority for the pleader to plead the cause, and to form a part of the record of the proceedings.

Pleaders for Government not to plead, or be concerned against Government.

Pleaders for Government at liberty to engage on either side, when Government is not a party.

XXVII. The pleaders for Government are not to advise, or be concerned directly or indirectly on behalf of, the opponents of Government, in suits that are directed to be carried on at the public expence. In all other suits, the pleaders for Government are to be at liberty to plead for either of the parties, in the same manner as the other pleaders of the court.

Pleaders for Government to be paid the same fees for pleading suits carried on at the public expence, as are allowed to pleaders pleading for individuals.

XXVIII. The pleaders for Government are to be paid the same fees in causes directed to be pleaded at the public expence, as pleaders employed in causes between individuals, and under the same rules and restrictions.

Pleaders pleading for Government to be subject to all the rules prescribed to pleaders pleading for individuals, except where it may be otherwise expressly directed.

XXIX. In pleading suits directed to be carried on at the public expence, the pleaders for Government are to be subject to all the rules prescribed to them when pleading on behalf of individuals, excepting in matters or cases in which it may be otherwise specially directed by any regulation.

Parties in a suit permitted to change their pleader during the time that the cause may be depending, under the restrictions herein specified.

XXX. A party in a suit who may be dissatisfied with the conduct of his pleader, is to be at liberty at any stage of the trial previous to the passing of the decision, to withdraw the powers delegated to him, and to appoint another pleader to plead the cause. The party is in such case to present a petition to the court, notifying that he has withdrawn the management of his suit from such pleader, and to file a vakalutnamah *in the name of the pleader whom he may appoint to carry on the suit. All acts done or performed by the dismissed pleader on the part of his client, are to be held equally valid as if he had been continued as pleader in the cause.*

Pleaders liable to prosecution by their clients, for fraudulent or bad practices in their suits.

XXXI. The parties in a cause are to be at liberty to prosecute the pleaders whom they may have employed, for any breach of this regulation, and for any fraudulent or bad practices regarding the suit.

Pleaders not to absent themselves but in case of indisposition, which is to be notified in writing to the register.

Hearing of causes in which pleaders so absent are engaged to be postponed, unless another pleader shall be appointed to plead them.

Punishment for pleaders guilty of a breach of this rule.

XXXII. If a pleader shall be unable to attend the court from indisposition, he is to notify it in writing to the register of the court; and if any cause in which such pleader may be engaged shall come on before the court on the day on which he may be absent, the hearing of the cause is to be postponed to a future day, unless the absent pleader, with the consent of his client, shall commit the management of the cause to any other pleader of the court. If a cause in which a pleader may be engaged, shall be brought on, or the court shall have occasion to make any enquiries from him respecting it, and the pleader shall not be present in court, and his absence shall not be occasioned by indisposition, or if it shall have proceeded from indisposition, and he shall have omitted to notify his inability to attend to the register, the court shall fine him for the first offence fifty rupees, for the second, one hundred rupees, and for the third, he shall be dismissed from his office. The fines which may be imposed in the above cases, are to be levied in the same manner as the fines mentioned in Section 16.

Individuals to have the option of pleading their causes in person, without employing a public pleader.

XXXIII. No part of this regulation is to be construed to prohibit, or prevent any individual from appearing and pleading his own cause in person in any of the courts of civil judicature, without employing a public pleader.

A. D. 1795. REGULATION XIII*.

A REGULATION *for extending to the Province of Benares, Regulation VII.* 1793, *entitled, "A Regulation for the Appointment of Vakeels or native Pleaders, in the Courts of civil Judicature, in the Provinces of Bengal, Behar, and Orissa," with an Alteration, exempting the Raja of Benares, and the Baboos of his Family, and certain Bankers, when Plaintiffs or Defendants, from giving the Security for the Payment of the Fees of the Vakeels required from other Plaintiffs and Defendants.* —PASSED *by the Governor General in Council, on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willuity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE *reasons assigned in the preamble to Regulation VII.* 1793, *for the appointment of authorized pleaders, to plead the causes of suitors in the courts of civil judicature, in the provinces of Bengal, Behar, and Orissa, being equally applicable to the province of Benares; and it having been deemed advisable to exempt the raja of Benares, and the baboos of his family, and certain bankers, when plaintiffs or defendants, from giving the security required by that regulation from plaintiffs or defendants for the payment of the fees of the* vakeels, *on grounds similar to those stated in the preamble to Regulation VIII.* 1795, *for exempting them when defendants, from giving the security or bail required from other defendants; the following rule has been enacted.*

Regulation VII. 1793, *extended to Benares, with an alteration.*

II. Regulation VII. 1793, *is hereby extended to the province of Benares, with this alteration, that the security directed by Section* 9, *of that regulation, to be taken from plaintiffs and defendants, shall not be required from the raja of Benares, and from the baboos, and bankers, described in Section* 10, *Regulation VIII.* 1795, *when plaintiffs or defendants, in any suit preferred against them in the city court, or the* zillah *courts; or in any suit which the Governor General in Council may order to be tried in the first instance, in the provincial court of appeal, or in the Sudder Dewanny Adawlut, or which the Sudder Dewanny Adawlut may order to be tried in the first instance, in the provincial court of appeal.*

Rescinded by Section 2, Regulation XXVII. 1814.

A. D. 1796. REGULATION VIII*.

A REGULATION *to determine the Fees receivable by Pleaders in the Zillah and City Courts in the Provinces of Bengal, Behar, and Orissa, in Suits for the Recovery of Arrears of Rent or Revenue, instituted under Regulation XXXV.* 1795.—PASSED *by the Governor General in Council, on the 2d September* 1796; *corresponding with the 20th Bhadoon* 1203 *Bengal era; the 15th Bhadoon* 1203 *Fussily; the 20th Bhadoon* 1203 *Willaity; the 15th Bhadoon* 1853 *Sumbut; and the 28th Suffer* 1211 *Higeree.*

Preamble.

TO *enable proprietors of land, and farmers of land holding their farms immediately of Government, to recover more speedily arrears of rent or revenue, which from the largeness of the amount, cannot be immediately realized by a levy of distress on the personal property of the defaulter, such proprietors, or farmers, who may have a demand on any of their dependant* talookdars, *under-farmers, or* ryots, *or their sureties, for an arrear of rent or revenue, exceeding five hundred sicca rupees, are by Regulation XXXV.* 1795, *empowered to proceed for the recovery of the amount by a summary process in the court of* dewanny adawlut *detailed in the above regulation. But although the parties in such suits are allowed to appear by an authorized* vakeel, *the fees to be received by the* vakeels *employed in the suits in question have not been determined; and a doubt has in consequence arisen whether the fees fixed by Regulation VII.* 1793, *for the pleaders employed in regular suits in the several courts of justice were meant to be allowed to* vakeels *employed in the summary suits instituted under Regulation XXXV.* 1795, *or otherwise. To remove this doubt, and on due consideration of the nature of the suits referred to in Regulation XXXV.* 1795, *the Governor General in Council has passed the following rule, to be considered in force from the date of its receipt by the several* zillah *and city courts in the provinces of Bengal, Behar, and Orissa.*

Vakeels employed in suits referred to in Regulation XXXV. 1795, to receive a fourth of fees prescribed for regular suits by Section 9, Regulation VII. 1793.

II. In all suits for the recovery of rents or revenue preferred before the judges of the zillah *and city courts under Regulation XXXV.* 1795, *the parties in which, or either of them, may employ an authorized* vakeel *of the court; upon the determination of the suit by the summary process directed in the said regulation, the* vakeels *employed therein, are to be allowed as fees for pleading the causes of their clients a per-centage on the sum of money which may constitute the subject of the suit, equal to one-fourth of the fees established for the pleaders in regular suits before the courts of* dewanny adawlut *by Section* 9, *Regulation VII.* 1793, *subject to the provision contained in Section* 13. *of the above-mentioned regulation, with respect to suits withdrawn before the answer of the defendant shall have been filed in the court, and also to all other provisions and restrictions contained in the abovementioned regulation.*

Subject to provisions and restrictions in Regulation VII.

These fees to be allowed on all suits not decided before the receipt of this regulation; but not retrospectively.

III. The above fees are to be allowed on all suits of the description mentioned, which may have been instituted under Regulation XXXV. 1795, *and shall not have been decided before the receipt of this regulation; but nothing contained in this regulation is to be considered applicable to suits which may have been determined previously to the receipt of it.*

The whole of this regulation is rescinded by Section 2, Regulation XXVII. 1811.

A. D. 1803. REGULATION X*.

A REGULATION *for the Appointment of Vakeels, or Native Pleaders, in the Courts of civil Judicature, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the 24th March,* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

THE *great body of the people, although they will feel the benefit of their operation, must necessarily be precluded by their pursuits and occupations in life from attending the courts of justice, or acquiring a sufficient knowledge of the laws and regulations, to qualify them for pleading their own causes. It is therefore indispensably necessary for enabling the courts duly to administer, and the suitors to obtain justice, that the pleading of causes should be made a distinct profession; and that no persons should be admitted to plead in the courts, but men of character and education, versed in the Mahomedan or Hindoo law, and in the regulations passed by the British Government; and that they should be subjected to rules and restrictions calculated to secure to their clients a diligent and faithful discharge of their trusts. Pleaders of this description will urge the best arguments for and against every claim; and it is essential to the due administration of justice, that such arguments should be offered to the judges. Their judgment cannot then often err, and when it does, the error will be invariably pointed out to the higher courts. The pleaders, therefore, on either side, whilst they will bring the merits of every case to light, and collect into one point of view the information necessary to enable the courts to form their opinion upon it, will be a check upon them, by exposing every deviation from the law in their judgments. As individuals will in general commit the management of their suits to the pleaders who may be best qualified to plead them, the parties in suits should have the option of employing such of the pleaders as they may think proper; and as an additional security for the zeal and fidelity of the pleaders, the parties ought to have the power of withdrawing the management of their causes from the pleaders whom they may entertain, whenever they may be dissatisfied with their conduct. The advantages of the pleaders will then be proportionate to their zeal, abilities, and integrity; at the same time that their exertions to acquire reputation and emolument, will necessarily conduce to the improvement of the judicial system. That the pleaders may not be deterred from pleading the causes of their clients with becoming freedom, and that men of education and respectable character may be solicitous to be admitted as pleaders in the courts, their appointments ought to be secured to them as long as they conform to the regulations under which they act; and they should not be removable until they have been proved guilty of a breach of those regulations, to the satisfaction of the Sudder Dewanny Adawlut. By the erection of tribunals, constituted upon the principles of the courts of justice, established under the regulations, and confining the pleading of suits to persons possessing the qualifications, and acting under the rules and restrictions hereafter enacted, individuals*

* Rescinded by Sect. 2, Regulation XXVII. 1814.

will be satisfied that personal solicitation and intrigue (the necessary result of a want of courts constituted upon such principles as to enable persons of every description to procure a speedy and impartial administration of the law) is not requisite either to obtain their own rights, or to defend themselves from oppression, or the unjust claim of others. They will feel that they have an impartial, and all-powerful protector in the laws; and that through the means of the public pleaders, they can at all times command the exercise of the judicial powers of Government lodged in the courts, for the redress of any injuries which they may sustain either in their persons or property.

Sudder Dewanny Adawlut empowered to appoint pleaders.

II. The Sudder Dewanny Adawlut is empowered to appoint, from time to time, such a number of pleaders of the Mahomedan or Hindoo persuasion, as may appear to them necessary to plead the causes of the parties in suits in the Sudder Dewanny Adawlut, the provincial court of appeal, and the courts of adawlut *in the several* zillahs.

Sunnud to be granted to pleaders.

III. The Sudder Dewanny Adawlut is to cause a writing, under the seal of the court, and attested by the register, to be delivered to each of the persons whom they may admit as pleaders in the several courts, specifying the name of the pleader, the date of his appointment, and the court in which he may be admitted, and empowering him to plead in it, under the rules contained in the regulations.

Oath to be taken by pleaders upon their first admittance.

IV. Every pleader, previous to his being allowed to practise, is to take and subscribe the following oath, before the court in which he may be admitted:—"I, A. B. solemnly swear, that I will truly and faithfully execute the duties of pleader of the Sudder Dewanny Adawlut, (or the provincial court of appeal for the division of ————, or the adawlut *of the* zillah *of ————,) to the best of my knowledge and judgment." And every six months, that is, on the 1st of January, and the 1st of July in each year, the Mahomedan pleaders of the several courts are to take and subscribe the following oath, before the court in which they may respectively practise:—"I, A. B. solemnly swear, that from the 1st of January, to the 30th of June last, (or from the 1st of July, to the 31st of December last,) I have truly and faithfully executed the duties of pleader in the Sudder Dewanny Adawlut, (or the provincial court of appeal for the division of ————, or the* adawlut *of the* zillah *of ————,) to the best of my knowledge and judgment."*

Half-yearly oath to be taken by the Mahomedan pleaders.

A copy of all regulations, with the translates, to lie for public inspection in the courts.

V. That the pleaders in the several courts, as well as all other persons, may have it in their power to render themselves acquainted with the regulations enacted by the British Government, there shall be kept, for public inspection, in the several courts of judicature, printed copies of all such regulations, with translates in the Persian and country languages, bound up with an index. Until the regulations that may be passed in each year are so bound up, the separate copies of each regulation, with the translates as they may be printed and circulated to the courts, are to be exposed as above directed. The regulations are to be deposited upon a table, to be expressly allotted for that purpose, in some part of the court-room; and to lie for public inspection every day, Sunday excepted, from the hour of nine in the morning until three in the afternoon, and during that time, the pleaders of the courts, and all other persons, are to be at liberty to refer to the regulations; or take copies or extracts from them in the court-room.

Four annas to be presented to a pleader as a retainer.

Pleaders receiving a retainer, and not carrying on the suit, to be dismissed.

VI. Upon a pleader agreeing to undertake the prosecution or defence of a suit, the party entertaining him is to present him with four annas as a retainer; which is to preclude him from being employed in the same cause, against the person so retaining him. The pleader, immediately upon receiving the retainer, is to give a written acknowledgment for it; specifying the date on which it may be delivered to him. If any pleader shall receive such retaining fee, and afterwards refuse or omit to carry on the suit of his client, he shall be dismissed from his office. The retainer is to be exclusive of the fees specified in Section 8.

Parties to execute vakalutnamah to their pleaders, vesting them with the powers herein mentioned.

VII. When a party in a cause shall have retained a pleader, and taken his receipt for the retainer, he is to execute to him a vukalutnamah, *constituting him pleader in the cause, and authorizing him to prosecute or defend the plaint or apeal, (according as the party may be plaintiff or appellant, defendant or respondent); and binding himself to abide by and confirm all acts, which such pleader may do or undertake in his behalf in the cause, in the same manner as if he had been personally present and consenting. The*

The party is to sign the instrument with his name, or put his mark to it, (if he shall be unable to write his name,) and (if he shall have a seal) affix his seal to it, in the presence of two credible witnesses, who are likewise to attest it, in the same manner.

How to be signed, sealed, and attested.

VIII. First. *In all regular suits, which may be tried in the* zillah *courts, under the rules prescribed in Regulation II. and III.* 1803, *as well as in all appeals from the judgments of the* zillah *courts in such suits; whether to the provincial court of appeal, or to the court of Sudder Dewanny Adawlut; and generally, in all regular suits, whether tried in the first instance, or in appeal, (for the fees in which no other express provision may have been made,) the pleaders of the plaintiffs and defendants, and appellants and respondents respectively, are to be allowed for pleading the causes of their clients, the rates of fees to be calculated as follows:*

Fees of pleaders in all regular suits, as well as in all appeals in such suits, to be allowed according to this section.

Second. *In suits for money, or personal property, or real property, (not being* malguzaree *or* lakheraj *land,) specified in the two next following clauses:*

How to be calculated in suits for personal property, or real property, not being malguzaree *or* lakheraj *land.*

On amount or value not exceeding one thousand sicca rupees, five per cent.

On amount or value exceeding one thousand, and not exceeding five thousand sicca rupees, five per cent. on the first thousand, and four per cent. on the remainder.

On amount or value exceeding five thousand, and not exceeding ten thousand sicca rupees, on five thousand as above, and on the remainder three per cent.

On amount or value exceeding ten thousand, and not exceeding twenty-five thousand sicca rupees, on ten thousand as above, and on the remainder two per cent.

On amount or value exceeding twenty-five thousand, and not exceeding fifty thousand sicca rupees, on twenty-five thousand as above, and on the remainder one per cent.

On amount or value exceeding fifty thousand, and not exceeding one hundred thousand sicca rupees, on fifty thousand as above, and on the remainder twelve annas per cent.

On amount or value exceeding one hundred thousand sicca rupees, on one hundred thousand as above, and on the remainder eight annas per cent.

In all the above calculations, where the amount or value may be in fractions of rupees, such fractions to be rejected in calculating the fees thereupon.

Third. *In suits for* malguzaree *land (land paying revenue to Government), the fees to be calculated at the rates above specified, on the annual produce of the land, to be estimated according to the rule prescribed in Section* 3, *Regulation III.* 1803.

Mode of calculation in suits for malguzaree *land.*

Fourth. *In suits for* lakheraj *land (land exempted from paying revenue to Government), the fees to be calculated at the rates above specified, on ten times the annual produce of the land, to be estimated as directed in Section* 3, *Regulation III.* 1803.

Ditto in suits for lakheraj *land.*

Fifth. *Nothing in the preceding clauses is to be understood to affect Section* 12, *respecting suits which may be withdrawn by the parties, or any other part of this regulation, except such as is herein expressly noticed.*

Preceding sections not to affect Section 12.

Sixth. *If the decree shall be given against the defendant or respondent, and the whole of the money or property which may be demanded by the plaintiff or appellant, shall be decreed to him; a sum equal to the whole of the fees of his pleader, shall be adjudged to the plaintiff or appellant, in addition to the costs which may be awarded to him. But if only a part of the money or property claimed is decreed to the plaintiff or appellant, a sum bearing the same proportion to the annual produce, if that part be land held exempt from the payment of public revenue, or to the annual public revenue, if that part be land subject to the payment of revenue to Government, or if that part be money or some specific thing, to the money or value of the thing decreed; as the fee did to the demand laid in the complaint or appeal, is to be decreed, and added to the costs which may be awarded to the plaintiff or appellant; and the sum so added, is to be recovered from the defendant or respondent, together with the fees of his own pleader, in the same manner as all other sums which may be decreed, are ordered to be recovered. If the suit of the plaintiff or appellant shall be dismissed, whether upon an investigation of the merits of it, or otherwise, and a decree shall be accordingly given against him, he is to pay his own costs, and the*

To whom the fees of the pleaders, and other costs of suit, are to be ultimately charged.

fees of his pleader, and the fees of the pleader of the defendant or respondent, and such costs as the court may think proper to award to him; and the court is to levy the sum which may be so adjudged to be paid by the plaintiff or appellant, in the same manner as all other sums decreed by the court are ordered to be recovered. The judges of the zillah courts, the provincial court of appeal, and the Sudder Dewanny Adawlut, are enjoined to make it an invariable rule to insert in their decrees, all sums paid or payable by the parties, on account of the costs or expenses of the suit; whether for fees to pleaders, compensations to witnesses, subsistence money to peons deputed to serve summonses, or other account; and the parties are not to be liable to the payment of any other costs or expenses, excepting such as may be inserted in the decree. But no suit whatever shall be received in any zillah court, nor in the provincial court of appeal, nor in the Sudder Dewanny Adawlut, until the complainant or appellant shall have given good security for the payment of the fees of the pleaders whom he may employ. Upon his giving such security, the suit is to be received, and process is to be issued against the defendant or appellant, who is likewise to be required to give security for the payment of the fees of the pleader whom he may entertain, in addition to any other security which may be required from him for the performance of the decrees or orders of the court.

Courts enjoined to insert in their decrees, all costs and expenses paid, or payable by the parties.

Fees of pleaders not payable until a decision in the cause is passed

IX. The fees of the pleaders are payable upon a decision being passed in the cause, whether upon the investigation of its merits, or otherwise, and not before. The fees are then to be forthwith levied by the court from the parties, by whom the decision may declare them payable; nor shall the execution of the part of the decision of the zillah courts, or the provincial court of appeal, so far as may relate to the payment of the fees of the pleaders, be stayed, or postponed, in consequence of an appeal being preferred from the decision. And if a pleader shall be removed from his office, or die, or resign, previous to the decision of any causes depending, in which he may have been entertained, neither he nor his heirs are to be entitled to any fees on account of such causes; but they are to be paid to the persons who may act as pleaders for the parties, when the causes may be brought to a decision.

If a pleader shall be removed from his office, or die or resign, before the decision of a cause, to whom the fees are to be paid.

Parties at liberty to entertain two pleaders, and the fees to be divided between them, if any two pleaders shall consent to undertake the cause.

X. If a party in a suit, in any of the courts of justice, shall be desirous of committing the pleading of his cause to two pleaders, and any of the two pleaders shall agree to undertake the suit, and to divide the authorized fees between them in an equal, or any other proportion, it shall be permitted to the party to pay, and the pleaders to receive such fees; and the proportions in which the fees are to be divided between the pleaders, are to be specified in the vukalutnamah.

Parties at liberty to entertain two pleaders, and to agree to pay them both the full fees.

But the opposite party, if cast, not be charged with any part of the fees of the extra pleader.

XI. If a party in a suit, in any of the courts of justice, shall be desirous of entertaining two pleaders, and shall of his own accord, agree to pay to each of the pleaders the full fees allowed to pleaders by this regulation, it is permitted to the party to pay, and the pleaders to receive such fees. But the opposite party in the cause, supposing him to be cast, shall only pay the fees of one pleader, or such part of them as the court may adjudge. The fees of the other pleaders are to be considered as a separate expense, defrayable by the party entertaining him, for which he is not to be reimbursed in any case whatever.

Pleaders in certain cases to receive only half of the established fees.

Cases, in which entitled to their full fees.

XII. If a suit shall be withdrawn before the plaint, or the petition of appeal, the answer, reply, and rejoinder shall have been filed in court, the pleaders of the plaintiff and defendant, or the appellant and respondent, shall each be entitled to only half of the established fees. If a suit shall be withdrawn at any time after the plaint or the petition of appeal, the answer, reply, and rejoinder shall have been filed in court, the pleaders are to be entitled to the full fees, in the same manner as if judgment had been given in the cause. The fees in both of the abovementioned cases, are to be paid by the plaintiff, or appellant, withdrawing the suit; together with all the admitted costs incurred by the defendant or respondent, in consequence of the preferring of the suit or appeal. If either party shall have employed two pleaders, under the option given them in Section 10, each pleader is to receive one-half of what he would have received, had the suit been brought to trial. Should either party have entertained two pleaders under Section 11, the extra pleader is to receive only one-half of the fees, to which he would have been entitled, had the cause been brought to a decision.

XIII. First. *The pleaders in the several courts, are permitted to demand, and receive a fee of four annas for every petition, which they may present, or motion that they may make in writing to the court; provided that the motion or petition shall not relate to any suit depending before the court, wherein the person on whose behalf they may present such petition, or make such motion, may be a party. The fee above allowed shall be payable, upon the court passing an order upon the petition or motion; and not before. But all petitions and motions presented, or made in any of the courts on behalf of parties in a suit, in which the fees in Section 8, may have been paid, or may be payable, from the filing of the suit, until a final decision upon it is passed, whether in the court in which it may be first instituted, or in appeal, and until that decision is enforced, are to be considered as paid for, by the fee allowed to the pleaders in the abovementioned section; and the pleaders in the several courts are required to make all such motions, and do all such acts as their clients may require, relating to any suit in which they may have received fees, after a decision shall have been passed, and until the suit shall be settled, and the final judgment be enforced.*

Pleaders allowed a fee of four annas for every petition or motion they may present, or make to the court, in the cases herein specified.

Second. *As particular cases may occur, wherein the above fee of four annas, may not be a sufficient compensation to the pleader or pleaders employed therein, the several courts, whenever in their judgment such cases may arise, are authorized to award such additional fee as they may consider a just compensation, to the pleader or pleaders so employed, on a review of his or their labour, considered with all the circumstances of the case; and to cause payment thereof to be made, either by the party, in whose behalf such pleader or pleaders may have been employed, or by the opposite party in the cause, as may be deemed just and proper. Provided however, that the compensation given in such cases, shall in no instance exceed one-fourth of the established fee, which the pleader or pleaders would have been entitled to, on a regular suit in the case in question.*

Courts authorized in certain cases to increase the fees of pleaders.

XIV. Pleaders are to give written receipts for all accounts, writings, or documents, that may be delivered to them by their clients, in the course of any process or suit. If a pleader shall refuse to return such accounts, documents, or writings, although some of them should concern him principally, the court upon a petition being presented to them for that purpose, by the owner of the papers withheld, shall cause them to be restored.

Pleaders to give receipts for all papers that may be entrusted to them by their clients.

XV. If a pleader shall be guilty of disrespect to the court, in open court, the court is empowered to impose a fine upon him, not exceeding one hundred sicca rupees; and to levy the amount by deducting it out of the fees that may become due to the offender, or by the process which is prescribed for enforcing decrees of the court.

Pleaders guilty of disrespect to the court, liable to be fined.

Fine how to be levied.

XVI. Pleaders convicted of promoting and encouraging litigious suits, or of frauds, or of gross misbehaviour, although not relating to any cause in which they may be concerned, shall be suspended. The court is to report the grounds of the suspension, within a month after it shall have taken place, to the Sudder Dewanny Adawlut, which court is either to fine such pleader or not, and allow him to resume his practice, or dismiss him from his office, according as they may think proper, upon a consideration of the circumstances of the case.

Pleaders convicted of litigiousness, fraude, or gross misbehaviour, how to be proceeded against.

XVII. If a pleader shall wilfully delay the suit of his principal for his own advantage, he is to be liable to be prosecuted by him for damages; and if he shall be convicted, the judge is to suspend him and report the circumstances to the Sudder Dewanny Adawlut; which court, provided the charge be proved to their satisfaction, shall dismiss the offender from his office.

Pleaders wilfully delaying the suit of their clients, liable to a prosecution, and to dismission.

XVIII. Pleaders are not to demand, or accept from their clients any fee or sum of money, or any goods or effects, or valuable consideration, for pleading their causes, besides the fees that they are, or may be expressly authorized to demand, and receive, by the regulations. If a pleader shall be convicted before the court, to which he may be attached, of acting contrary to the prohibition contained in this section, the court shall suspend him from the exercise of his functions; and report the circumstances to the Sudder Dewanny Adawlut; which court, if there shall appear to it sufficient cause for so doing, shall dismiss the offender from his office.

Pleaders not to receive any fee or reward whatever not authorized by the regulations;

under pain of being suspended by the court to which they may be attached, and dismissed.

Pleaders of the same court to be allowed to act for each other in the causes, and under the provision, herein specified.

XIX. In case of the temporary absence of a pleader, from indisposition, or other cause, the court may permit any other pleader of the court to act for such absent pleader, in any cause or causes in which he may be engaged, provided the parties, by whom such absent pleader may have been entertained, shall give their consent by a writing, under their seal and signature, and attested by two credible witnesses, to be filed in court.

Pleaders in one court not to act in another without permission.

XX. The vakeels *attached to one court, are not to be allowed to plead in any other court, without the sanction of the Sudder Dewanny Adawlut.*

No pleader to be dismissed from his office but for incapacity or misconduct, proved to the satisfaction of the Sudder Dewanny Adawlut.

XXI. No pleader is to be dismissed from his office, but for incapacity, or misconduct in the discharge of his public duty, or gross profligacy or misbehaviour in his private conduct, proved to the satisfaction of the Sudder Dewanny Adawlut. In cases in which it shall be proved to the satisfaction of the provincial court of appeal, or the zillah *courts, that any pleader attached to their respective courts, is unqualified for his office from incapacity, or that he has committed any act which subjects him to dismission from his office, the court shall suspend such pleader from the exercise of his functions; and shall certify all the papers and proceedings relating to the case, to the Sudder Dewanny Adawlut, and wait the orders of that court.*

Governor General in Council to appoint pleaders in the several courts to plead for Government.

XXII The Governor General in Council is to appoint one, two, or more of the authorized pleaders in the Sudder Dewanny Adawlut, the provincial court of appeal, and the courts of adawlut *in the several* zillahs, *to prosecute any suits in those courts respectively, which may be directed to be carried on at the public expense, by any regulation; or by a special order from the Governor General in Council. They shall be furnished with a written authority to that purpose, in the English and Persian languages, attested by the secretary to Government.*

Written authority to be furnished them for the above purpose.

Oaths to be taken by pleaders of Government upon their appointment, and every six months.

XXIII. Every person who may be appointed a pleader for Government, in any of the courts of judicature, is to take and subscribe the following oath, before the court in which he may be appointed to plead:—"I, A. B. solemnly swear, that I will execute the duties of pleader for Government, in the court of Sudder Dewanny Adawlut, (or the provincial court of appeal for————, or the court of adawlut *of the* zillah *of————,) to the best of my knowledge and judgment." And every six months, viz. on the 1st of January, and the 1st of July, in each year, the pleaders for Government, who may be Mahomedans, are to take and subscribe the following oath, before the court to which they may be respectively attached;—"I, A. B. solemnly swear, that from the 1st of January to the 30th of June last, (or from the 1st of July to the 31st of December last,) I have truly and faithfully executed the duties of pleader for Government, in the Sudder Dewanny Adawlut, (or the provincial court of appeal for————, or the court of* adawlut *of the* zillah *of————,) to the best of my knowledge and judgment."*

What is to be considered as authority to the pleaders of Government to plead a cause.

XXIV. The pleaders for Government, are to undertake all causes which they may be directed to plead, by orders from Government, or that may be directed by any regulation to be carried on at the public expense, upon receiving a special order for that purpose immediately from the Governor General in Council, or from any officer or officers empowered by any regulation to superintend such suits, and furnish them with instructions for the conduct of them. The order of Government, or of such officer or officers, is to be filed in the court, as the authority for the pleader to plead the cause, and is to form a part of the record of the proceedings.

In what suits pleaders for Government are not to plead.

XXV. The pleaders for Government are not to advise, or be concerned directly or indirectly, on behalf of the opponents of Government, in suits that are directed to be carried on at the public expense. In all other suits, the pleaders for Government, are to be at liberty to plead for either of the parties; in the same manner as the other pleaders of the court.

Pleaders for Government how to be paid.

XXVI. The pleaders for Government are to be paid the same fees in causes, directed to be pleaded at the public expense, as pleaders employed in causes between individuals; and under the same rules and restrictions.

To what rules pleaders pleading for Government are to be subject.

XXVII. In pleading suits directed to be carried on at the public expense, the pleaders for Government are to be subject to all the rules, prescribed to them when pleading on behalf of individuals; except in matters or cases in which it may be otherwise specially directed by any regulation.

XXVIII. A party in a suit who may be dissatisfied with the conduct of his pleader, is to be at liberty, at any stage of the trial, previous to the passing of the decision, to withdraw the powers delegated to him, and to appoint another pleader to plead the cause. The party is in such case to present a petition to the court, notifying that he has withdrawn the management of his suit from such pleader; and to file a vukalutnamah *in the name of the pleader whom he may appoint to carry on the suit. All acts done or performed by the dismissed pleader on the part of his client, are to be held equally valid, as if he had been continued as pleader in the cause.*

Parties in a suit permitted to change their pleaders under certain restrictions.

XXIX. The parties in a cause are to be at liberty to prosecute the pleaders whom they may have employed, for any breach of this regulation, and for any fraudulent or bad practices regarding the suit.

Pleaders where liable to prosecution.

XXX. If a pleader shall be unable to attend the court from indisposition, he is to notify it in writing to the register of the court; and if any cause in which such pleader may be engaged, shall come on before the court on the day on which he may be absent, the hearing of the cause is to be postponed to a future day; unless the absent pleader, with the consent of his client, shall commit the management of the cause to any other pleader of the court. If a cause in which a pleader may be engaged shall be brought on, or the court shall have occasion to make any inquiries from him respecting it, and the pleader shall not be present in court, and his absence shall not be occasioned by indisposition, or if it shall have proceeded from indisposition, and he shall have omitted to notify his inability to attend, to the register, the court shall fine him for the first offence fifty rupees; for the second, one hundred rupees; and for the third, he shall be dismissed from his office. The fines which may be imposed in the above cases, are to be levied in the same manner as the fines mentioned in Section 15.

Pleaders not to absent themselves, but in case of indisposition, which is to be notified in writing to the register.

Hearing of causes, in which pleaders so absent, are engaged, to be postponed, unless another pleader shall be appointed to plead them.

Punishment for pleaders guilty of a breach of this rule.

XXXI. No part of this regulation is to be construed to prohibit, or prevent any individual from appearing, and pleading his own cause in person, in any of the courts of civil judicature, without employing a public pleader.

Individuals may plead their own causes.

XXXII. Whereas doubts may arise, whether pleaders are restricted from agreeing with their constituents, to plead their causes for less than their established fees; and as a principal object in fixing the rates of fees for pleaders (namely, to induce men of character and education to become pleaders in the courts of justice,) would be defeated by allowing such private agreement, the consequence of which would be, that instead of a preference being given to superior qualifications and diligence, the most needy would probably engross the greater part of the business, whether qualified or otherwise, it is therefore hereby declared, that all agreements of the description above named, for paying or receiving less than the established fees, are to be considered null and void; and besides a forfeiture to Government of the full fees payable by the plaintiff or defendant, appellant or respondent, who may be proved a party in such illicit agreement, any pleader who may be convicted of having been a party therein, shall be liable to immediate dismission from his office.

Pleaders not to plead for less than their established fees.

XXXIII. The pleaders are to be selected from amongst the students in the Mahomedan college at Calcutta, and the Hindoo college at Benares, who may be qualified, and be desirous to be admitted to plead in any of the courts. If the colleges shall not furnish a sufficient number of pleaders, the Sudder Dewanny Adawlut is to admit any other persons, provided they be Mahomedans or Hindoos; previously, however, ascertaining that they are men of good character, and liberal education; and giving a preference in all cases to persons of this description, who have been bred to the study of the Hindoo or Mahomedan law.

What description of persons are to be selected for pleaders.

XXXIV. First. *In suits for the recovery of rents or revenue, preferred before the judges of the* zillah *courts under Regulation XXVIII.* 1803, *the parties in which, or either of them, may employ an authorized* vakeel *of the court, upon the determination of the suit, by the summary process directed in the said regulation, the* vakeels *employed therein are to be allowed as fees for pleading the causes of their clients, a per centage, on the sum of money which may constitute the subject of the dispute, equal to one fourth of the fees established for the pleaders in regular suits, before the courts of* adawlut.

Vakeels employed in the summary process for the recovery of rents or revenue, as warranted by Regulation XXVIII. 1803, *to receive one-fourth of the fees allowed in regular suits.*

Similar rate of fees to vakeels on summary processes under Regulation XXXII. 1803.

Second. *The same rate of fees shall be allowed to pleaders in the summary processes for recovering the possession of land, authorized by Regulation XXXII. 1803, as are established in the preceding clause for suits instituted under Regulation XXVIII. 1803.*

Where the plaintiff, appellant, or his sureties, are unable to make good the costs awarded against him, the courts are to limit defendant's costs to an adequate compensation for labour of his pleader.

XXXV. In suits in the several civil courts, where the claim of the plaintiff or appellant may be dismissed with costs, and he may not be found to possess property sufficient to make good the fees of the defendant's pleader, the payment of which must consequently fall upon the defendant, although the decision is in his favour; if the amount of the established fees shall appear to the court to exceed a just compensation to the pleader, or pleaders, employed by the defendant, on a review of his or their labour, considered with all the circumstances of the case, the court is authorized, and required, to levy from the defendant, such part only of the established fee, as may appear an adequate compensation to his pleader or pleaders; leaving the remainder to be recovered, from any property that may be subsequently found to belong to the plaintiff or appellant, in the way as is prescribed in Section 3, Regulation XIV. 1803. The registers to the* zillah *courts shall possess the same powers as above described, in causes cognizable by them, with respect to the fees of pleaders.*

Rest of the established fees how to be levied.

Registers to the zillah *courts to have the like powers.*

* Section 35. is again rescinded by Sect. 2, Regulation XXVIII. 1814.

A. D. 1814. REGULATION XXVII.

A REGULATION *for reducing into one Regulation, with Amendments and Modifications, the several Rules which have been passed regarding the Office of Vakeel or Native Pleader in the Courts of Civil Judicature.*—PASSED *by the Vice-President in Council, on the* 29*th November* 1814; *corresponding with the* 15*th Aughun* 1221 *Bengal era; the* 2*d Aughun* 1222 *Fussily; the* 16*th Aughun* 1222 *Willaity; the* 2*d Aughun* 1871 *Sumbut; and the* 16*th Zeheija* 1229 *Higeree.*

Preamble.

WHEREAS it has been deemed expedient to transfer to the provincial courts the control now exercised by the Sudder Dewanny Adawlut in the appointment and removal of *vakeels* or native pleaders in the *zillah* and city courts; and in the provincial courts: and whereas the speedy adjustment of disputes may be facilitated by empowering the authorized *vakeels* to receive certain fees for legal opinions furnished by them, and by vesting them with authority to act as arbitrators under the general regulations: and whereas it will contribute to the public convenience to reduce into one regulation, with amendments and modifications, the whole of the provisions, which will be applicable to the office of *vakeel* or native pleader; the following rules have been passed, to be in force from the 1st of February 1815, throughout the whole of the provinces immediately subject to the presidency of Fort William.

Regulations rescinded.

II. Regulation VII. 1793; such parts of Section 4, Regulation XVI. 1793; of Section 2, Regulation XV. 1795; and of Section 4, Regulation XXI. 1803, as prohibit *vakeels* from being employed as arbitrators; Regulation XIII. 1795; Regulation VIII. 1796; Sections 4. and 5, Regulation VIII. 1797; Sections 9. to 15, inclusive, of Regulation V. 1798; such part of Sections 3. and 4, Regulation III. 1802, as relates to the fees of *vakeels*; Regulation X. 1803; and clause third, Section 6, Regulation XIII. 1808, are hereby rescinded.

The Sudder Dewanny Adawlut and the provincial courts empowered to appoint the *vakeels* of their respective courts.

III. *First.* The Sudder Dewanny Adawlut and the several provincial courts are empowered to appoint to the office of *vakeels* in their respective courts, such a number of persons, being natives of India, and duly qualified for the situation, as may, from time to time, appear to them to be necessary.

Vakeels of the *zillah* and city courts to be nominated by the judges of those courts for the sanction of the provincial courts.

Second. Whenever the appointment of a *vakeel* may be requisite in any of the *zillah* or city courts, the judge of such *zillah* or city shall nominate, for the approbation of the provincial court of the division, some person being a native of India and duly qualified for the situation; and shall communicate to the provincial court, such information as he may have obtained regarding the age, capacity, character, education, and past employment of the individual, whom he may recommend; and no person shall be authorized to practise as a *vakeel* in any *zillah* or city courts without the previous sanction of the provincial court.

Pleaders to be either of the Hindoo or Mahomedan religion.

Third. In the nomination and appointment of persons to the office of *vakeel*, the judges of the Sudder Dewanny Adawlut, of the several provincial courts, and of the *zillah* and city courts, are restricted to individuals of the Hindoo and Mahomedan persuasion, and are required to give the preference to candidates who may have been educated in any of the

Preference to be given to candidates of a certain description.

Mahomedan or Hindoo colleges established or supported by Government, provided that such candidates are in other respects duly qualified for the situation.

Pleaders to receive a *sunnud* from the courts to which they may be appointed.

The *sunnud* to be of a prescribed form,

IV. *First.* Persons who may hereafter be appointed to the office of *vakeel* in the *zillah* and city courts, the provincial courts, or the Sudder Dewanny Adawlut, shall receive a *sunnud* of appointment, duly authenticated by the court to which they may be respectively attached. This *sunnud*, which is not required to be written on stampt paper, shall be drawn up according to the form No. 1, in the appendix to this regulation.

And to be cancelled on the death, removal, or resignation of the pleaders.

Second. Whenever a *vakeel* may be dismissed from his office, or may die, or may resign his situation, his *sunnud* of appointment shall be recalled and cancelled by the court, to which such *vakeel* may have been attached.

Pleaders to take an oath according to the prescribed form; or a solemn declaration in lieu thereof;

V. *First.* Every *vakeel*, previously to being allowed to practise, shall take and subscribe before the court, to which he may be appointed, an oath, drawn up according to the form No 2, of the appendix to this regulation, or a solemn declaration in lieu thereof, under the provisions now in force, or any other provisions which may be hereafter enacted.

But not the half yearly retrospective oath formerly prescribed for Mahomedan pleaders.

Second. The Mahomedan pleaders attached to the several courts of civil justice shall no longer be required to take the half yearly retrospective oath heretofore prescribed by the regulations.

Pleaders liable to be dismissed for certain acts of misconduct.

VI. Pleaders, employed in the several courts of civil judicature, shall be liable to dismission from their office whenever they may be guilty of encouraging or promoting litigious suits; of wilfully delaying the suits of their clients for their own advantage; of refusing or omitting, without sufficient cause to be shewn to the court, to carry on the suits of their clients, after having accepted a *vakalutnamah*; of demanding or accepting from their clients any fee, or sum of money, goods, effects, or other valuable consideration beyond the fees, which they are or may be authorized to receive under the regulations; or of fraudulent practices, neglect, or other misconduct, in the discharge of their professional duty; or of gross profligacy or misbehaviour in their private conduct.

Agreements to receive less than the authorized fees declared to be illegal, and *vakeels* liable to dismission when parties to such agreements.

VII. All agreements, which may be entered into between pleaders and their constituents, for paying or receiving less than the established fees, are to be considered null and void; the whole of the *vakeels'* fees, which may be payable by the party in such cases, shall be forfeited to Government; and the pleader who may be convicted of having been a party in such illicit agreement, shall be liable to immediate dismission from his office.

Pleaders accepting *vakalutnamahs* in fictitious names liable to be dismissed.

VIII. The *vakeels* are required to use due precautions to ascertain the real names and the identity of persons, who may propose to employ them as pleaders; and any authorized *vakeel*, who shall hereafter receive and file a *vakalutnamah* from any person under a fictitious name, shall be liable to be dismissed from his office; provided however, that the judge, upon full inquiry into the circumstances of the case, and the provincial court, on consideration of the judge's report, shall deem him to be deserving of such punishment.

Vakeels required to examine and sign the pleadings before they are filed

IX. *First.* The *vakeels* are hereby enjoined not to file any plaint, answer, or other pleading, without previously ascertaining that such pleading has been duly prepared in conformity with the regulations; that it contains no unnecessary repetitions of former pleadings, no terms of personal abuse or reproach against the opposite party, his *vakeels*, witnesses, or other persons; and no groundless imputations on any court of justice or public officer; but that it contains such matter only as is apparently material and relevant to the suit. Every pleading filed by an authorized *vakeel*, shall be signed by him in testimony of his having considered and approved its contents.

Pleaders to examine exhibits previously to their being filed on the part of their clients.

And not to summon witnesses without previously ascertaining to what points their testimony is required.

Second. In order that the expense, trouble, and inconvenience frequently experienced by filing irrelevant exhibits, and by summoning useless witnesses, may be avoided, the *vakeels* are hereby further required to examine the documents which their constituents may propose to exhibit in proof of their claims, previously to their being filed in court; and to ascertain from their constituents, previously to summoning any witnesses, the specific points which such witnesses are expected to prove by their testimony.

Pleaders to be censured and eventually dismissed for breach of the preceding rules.

Third. The courts will carefully point out to the notice of the *vakeels* such parts of the pleadings as are evidently irregular, irrelevant, or otherwise objectionable, and shall record their censure of any *vakeel*, whose conduct, in opposition to the preceding rules, may in any

particular instance, demand such animadversion. If notwithstanding such recorded censure, a *vakeel* shall again be guilty of similar misconduct, he shall be liable to forfeit in each instance the amount of the fee to which he may be entitled in the suit, or to such other fine to Government, not exceeding twenty rupees, as the court may deem it proper to impose.

The Sudder Dewanny Adawlut and the provincial courts authorized to dismiss the pleaders of their respective courts.

X. *First.* The Sudder Dewanny Adawlut and the several provincial courts will, at all times, exercise their discretion in removing from his office any pleader of their respective courts, who may be guilty of any of the acts above mentioned, or who may be otherwise deemed unfit for the situation.

Misconduct or disqualifications of pleaders attached to the *zillah* and city courts to be reported by the judges of those courts to the provincial courts.

Second. Whenever a *zillah* or city judge shall be of opinion that a *vakeel*, attached to his court, or to that of a register, or any of the *sudder ameens*, is unfit for the situation, in consequence of his having been guilty of any of the acts mentioned in the preceding sections, or that he is otherwise disqualified for the office of pleader, the judge shall report the circumstances of the case, together with his own opinion upon it, to the provincial court, who will pass such orders on the case as may appear to be proper, or will call for any additional information, or direct any further inquiry that the nature and circumstances of each case may appear to demand.

Who will pass such order thereon as may be proper.

Pleaders attached to *zillah* and city courts may be suspended from office without the previous sanction of the provincial court.

XI. The *zillah* and city judges are empowered, without the previous sanction of the provincial court, to suspend from his office any pleader attached to their courts, who may be guilty of any gross act of fraud or misconduct; but in such instances it shall be the duty of the judge to report the circumstances of the case, with as little delay as possible, for the information and orders of the provincial court.

Such cases to be immediately reported for the information and orders of the provincial court.

In what cases the pleaders are liable to be prosecuted in the civil court by their clients.

XII. *First.* The parties in a cause are authorized to prosecute their respective pleaders in the civil courts of judicature for any damages or injury which they may have sustained from any breach of the regulations on the part of their pleaders, or from any fraudulent conduct or malpractices committed by their pleaders regarding the suit.

Parties may withdraw the management of a depending suit from their pleaders, and may appoint new pleaders in their room.

The court may award to a pleader so removed any portion of the fee which may be proper.

Second. Any party in a suit, who may be dissatisfied with the conduct of his pleader, shall be at liberty, at any stage of the trial previously to the decision, to withdraw the power delegated to his pleader, and to appoint another *vakeel* to plead the cause. In such cases the party is to present a petition to the court, notifying that he has withdrawn the management of the suit from such pleader, and is to file a new *vakalutnamah* in the name of the pleader whom he may appoint to carry on the suit: all acts, however, which may have been done by the first pleader on the part of his client, previously to his having been dismissed, are to be held valid: on the conclusion of the suit, the court will exercise its discretion in awarding to the pleader first employed, any portion of the authorized fee to which he may appear justly entitled, on a consideration of the trouble which he may have undergone, and the other circumstances of the case.

Measures to be adopted when a pleader may be unable to attend the court from indisposition or other sufficient cause.

XIII. If a pleader should be unable to attend the court in consequence of indisposition or other sufficient reason, he is to notify the same in writing to the court on unstampt paper; and the hearing of any cause, in which such pleader may be employed, is to be postponed to a future day, unless the party or his authorized agent shall commit the management of the cause to any other pleader of the court, or unless the party himself shall be present and willing to plead the cause in person. If the management of the cause shall be entrusted to any other pleader of the court, instead of filing a new *vakalutnamah*, it shall be sufficient for the party or his *moktar* duly authorized, to endorse on the back of the original *vakalutnamah*, a written declaration, that he has appointed some other *vakeel* of the court to conduct the cause, either permanently or during the absence of the pleader first appointed: on passing a decision in such cases, the court shall direct the amount of the authorized fee to be divided between the two pleaders in such proportions as may furnish an equitable remuneration for the trouble which they may have respectively undergone.

Penalties for pleaders absenting themselves from court without notifying the cause of their absence.

XIV. *First.* If a pleader shall fail to attend in court on any day fixed for the transaction of civil business, and shall omit to notify in writing to the court his inability to attend, in consequence of indisposition or other sufficient cause, the court is authorized to impose on such pleader a fine, for the first offence, not exceeding the sum of fifty sicca rupees; and for the second offence, not exceeding one hundred sicca rupees. If such pleader shall be guilty of a similiar offence a third time, he shall be liable to dismission from his office.

Pleaders may be fined 100 rupees for disrespect to the court.

Second. If any pleader shall be guilty of disrespect to the court, in open court, the court is empowered to impose a fine upon him, not exceeding the sum of one hundred rupees.

Fines imposed on pleaders by the *sudder ameens* to be reported to the *zillah* or city judge.

XV. *First.* Whenever a *sudder ameen* may find it necessary to impose any fine on a pleader attached to his court, he shall report the circumstances of the case to the judge, who will either confirm and enforce, or modify or remit the fine, as may appear to him reasonable and proper.

The orders of *zillah* and city judges, and registers imposing fines on pleaders, to be conclusive. Proviso.

Second. All orders imposing fines on pleaders, which may be passed by the judges or registers of the *zillah* and city courts in conformity with this regulation, shall be final; and the amount of the fines shall be levied either by a deduction from the fees, which may become due to the offender, or by the process which is prescribed for the execution of decrees. Provided, however, that if a *zillah* or city judge shall in any particular instance see reason to believe, that a fine has been imposed by a register on insufficient grounds, or that the amount of such fine is disproportionate to the offence, it shall be competent to the *zillah* or city judge to remit or modify the fine at his discretion, and the order of the *zillah* or city judge, in such cases, shall be conclusive.

Vakeels not allowed to plead in other courts than in those to which they may be attached. Exceptions.

XVI. The *vakeels* attached to one court, are not to be allowed to plead in any other court; but this rule is not intended to preclude the *zillah* and city judges from making such an allotment and distribution of the pleaders attached to their courts, as may from time to time appear convenient, on a consideration of the civil business in their own courts, and in those of their registers, and of the *sudder ameens*. The judges of the Sudder Dewanny Adawlut and provincial courts will also of course be at liberty to make any distribution of the *vakeels* attached to their respective courts, which may be found convenient for the despatch of business in sittings which may be held before the separate judges of those courts.

Vakeels prohibited from being employed as agents or *moktars* in the *foujdaree* courts of the *zillahs* and cities.

XVII. The authorized pleaders of the *zillah* and city courts are hereby prohibited, without obtaining the previous sanction of the judges of those courts, from officiating as agents or *moktars* in any prosecution, trial, or proceeding before the magistrates or their assistants. This prohibition, however, is not intended to apply to the cases of pleaders who may be employed on the part of Government in conducting the prosecution of persons charged with criminal offences, or in the execution of any other duties in the criminal department, which such pleaders may be directed or authorized to perform on the part of Government, under the regulations which are now or may hereafter be in force.

Publication to be issued on the death, resignation, or removal of a pleader in a *zillah* or city court.

What the publication is to contain.

XVIII. *First.* Whenever a *vakeel* attached to a *zillah* or city court may die, or may be removed from his office, or may voluntarily resign his situation, the judge of such *zillah* or city shall notify the same in a publication, to be affixed in his own *cutcherree*, and in the *cutcherrees* of the register, *sudder ameens*, and the collector of the district. The publication shall contain a statement of the several depending cases, in which such *vakeel* may have been employed, and a requisition to the parties who have retained such *vakeel* to attend in person, or to substitute another *vakeel* in room of the pleader formerly appointed by them, within a reasonable period, to be fixed by the court, not being less than six weeks. In such instances, instead of filing a new *vakalutnamah*, it shall be sufficient for the party or his *moktar* duly authorized to endorse on the back of the original *vakalutnamah*, a written declaration, that he has appointed some other *vakeel* of the court, in lieu of the pleader who may have died or resigned his office, or have been removed from his situation.

Such publication to be considered a good and sufficient notice.

Second. A publication issued in conformity with the preceding rules shall be held and considered to be a good and sufficient notice, and if any party shall not attend or appoint another *vakeel*, within the period limited in the publication, he shall be required to shew cause for the omission, and if sufficient cause be not assigned, the court shall proceed as in case of default in conformity with the provisions in force.

Publication to be issued on the death, resignation, or removal of a pleader in the provincial courts or in the Sudder Dewanny Adawlut.

Third. A similar notification shall be issued on the death, resignation, or removal of any pleader attached to the provincial courts, or to the Sudder Dewanny Adawlut. If the pleader shall have been attached to a provincial court, the publication shall be affixed in the *cutcherree* of such provincial court, and of the Sudder Dewanny Adawlut, and in the *cutcherrees* of the several *zillah* and city courts included in the division; and the period to be allowed for parties to appear and to substitute another *vakeel* shall not be less than

two months; if the pleader shall have been attached to the Sudder Dewanny Adawlut, the publication shall be affixed in that court, and in such of the provincial courts, and of the *zillah* and city courts, in which it may appear necessary to publish the same, with reference to the depending causes in which the *vakeel* may have been employed; and the period to be allowed to parties to appear and substitute another *vakeel*, shall not be less than three months.

Similar publication may be issued in other cases.

Fourth. The courts are authorized to apply the principle of the preceding rules to cases, in which the decision of suits may be materially delayed by the protracted indisposition of a pleader, or by his continued inability to attend the court from any other cause which may be expected to be permanent, or of considerable duration.

Courts empowered to adjudge a reasonable portion of the fee to a pleader who may have been removed from the management of a cause without any fault on his part.

Fifth. Whenever a pleader originally entertained by a party may have commenced the pleadings and prosecution, or defence of a suit, and from any cause, not originating in the misconduct of such pleader, another pleader shall be employed in his stead; it shall be competent to the court in which the suit is decided or terminated, to adjudge to the pleader so employed at the commencement of the suit (or if he be dead, to his heirs or legal representatives), such part of the established fee as may appear to be an equitable remuneration for the trouble which he may have undergone.

Pleaders may be employed as arbitrators.

XIX. The courts of civil judicature are hereby empowered to permit any of the authorized *vakeels* of their respective courts to be arbitrators in depending suits, subject to the several rules and provisions in force for referring suits to arbitration.

Pleaders may receive fees for legal opinions.

XX. *First.* The authorized *vakeels* of the Sudder Dewanny Adawlut, of the provincial courts, and of the *zillah* and city courts, are hereby empowered to receive fees for legal opinions under the provisions contained in the following clauses of this section.

A written statement of the case to be submitted to the pleader.

Second. Any person who may be desirous of obtaining the opinion of an authorized pleader regarding the legal validity and sufficiency of any claim, right, or title which he may suppose himself to possess, and on the consequent expediency of prosecuting or defending, either originally or in appeal, such supposed claim, right, or title in the courts of civil judicature, may submit a written statement of his claim under his seal, signature, or mark to the pleader whose opinion he may wish to obtain.

The pleader to give a written declaration of his opinion.

Third. The pleader to whom such statement may be submitted, after an attentive consideration of the laws, regulations, usages, or precedents which may be applicable to the case, and of the arguments and proofs which may be adduced in support of the claim, shall furnish to the party under his signature, a written declaration of his opinion, and of the grounds upon which that opinion may be formed.

Rates of fees to be allowed in such cases.

Fourth. If the pleader who may have furnished such written opinion shall be attached to the court of Sudder Dewanny Adawlut, he shall be entitled to a fee of twenty-four rupees. If he shall be attached to any of the provincial courts, he shall be entitled to a fee of sixteen rupees. If he shall be attached to a *zillah* or city court, he shall be entitled to a fee of eight rupees.

But pleaders who may have accepted a *vakalutnamah* in the case, not authorized to receive such fee.

Fifth. Provided however, that it shall not be lawful for any pleader, who may have received a *vakalutnamah* in any suit instituted in a court of civil judicature, to receive the fee above prescribed on account of any legal opinion, which he may subsequently furnish to his constituent respecting any subject or question connected with such suit.

Pleaders liable to penalties for wilfully furnishing a dishonest opinion.

Sixth. Any pleader who under the preceding rules, may knowingly furnish an opinion of a nature evidently calculated to promote the institution of unfounded or litigious suits, or to discourage the amicable adjustment of dubious claims, shall be liable to be dismissed from his office: and if after furnishing such dishonest opinion, he shall be employed as a pleader in the suit, his fees shall be liable to be forfeited by order of the court, either to Government or to the party whom he may have wilfully misled by such opinion.

Retaining fee abolished.

Rules for the execution of a *vakalutnamah*.

XXI. *First.* When a party in a cause may be desirous of retaining a *vakeel* for the prosecution or defence of any civil suit, he shall not be required to pay to such *vakeel* the retaining fee of four annas, heretofore prescribed, but he shall execute to him a *vakalutnamah*, constituting him pleader in the cause, and authorizing him to prosecute or defend the suit, and further binding himself to abide by and to confirm all acts which such pleader may

do or undertake in his behalf in the cause, in the same manner as if such party had been personally present and consenting; the party is to attest the instrument with his seal or signature, or with his mark if he cannot write, in the presence of two credible witnesses, who are likewise to attest it in the same manner; and who are to attend the court and prove the *vakalutnamah*, in all cases in which it may be judged requisite.

Vakalutnamahs to be written on stampt paper, but not liable to the exhibit fee.

Second. Such *vakalutnamahs* are to be written on the stampt paper prescribed in Section 18, Regulation I. 1814, but shall not be liable to the stamp duty on exhibits under Section 15. of that regulation.

Pleaders, after accepting a *vakalutnamah*, are prohibited from being employed in the same cause against the party who may have so retained them.

XXII. When a *vakeel* to whom a *vakalutnamah* may have been executed under the preceding section, shall consent to undertake the prosecution or defence of the suit, he shall affix his signature to the back of the *vakalutnamah*, together with the date on which such signature may be affixed; and shall thenceforward be precluded from being employed in the same cause against the party who may have so retained him.

Security formerly required for the payment of *vakeels'* fees no longer necessary.

But the amount of the fees to be deposited in court.

XXIII. *First.* Whenever a pleader may have been duly appointed on the part of any plaintiff or appellant, in any regular or summary suit instituted in a *zillah* or city court, a provincial court, or in the Sudder Dewanny Adawlut, such plaintiff or appellant, instead of furnishing security, as heretofore required, shall deposit in the court a sum equal to the amount of his pleader's fee; according to the rate prescribed in the following section as applicable to regular suits, and in Section 32. as applicable to summary suits; and until such deposit be made, no *vakeel* shall be allowed to do any act in the suit, except in the case of paupers, or in other cases specially provided for by the regulations. A similar deposit shall likewise be required from defendants or respondents for the fees of the pleaders whom they may employ; and until such deposit be made, the pleaders shall not be allowed to plead, or to perform any act in the suit on the part of their constituents, except in the special cases above mentioned.

Receipt to be granted for such deposit.

And a register book of such deposits to be kept by the treasurer of the court.

Second. A receipt on unstampt paper, duly attested by the treasurer of the court, shall be granted in each instance to the party making the deposit; and a duplicate receipt similarly attested shall be filed with the proceedings in the suit; an account of such deposits shall also be regularly entered into a register book to be kept by the treasurer of the court for that purpose.

Receipts and register book to be drawn up according to prescribed forms.

Third. The receipts shall be drawn up according to the form No. 3, and the register book shall be prepared and kept according to the form No. 4 of the appendix to this regulation.

In what cases the preceding rules are not applicable.

XXIV. The preceding rules are not intended to be applicable to the fees of *vakeels*, employed on the part of paupers, or in presenting to the courts miscellaneous petitions, or applications of the descriptions mentioned in Section 34. of this regulation. In such cases no previous deposit or security shall be demanded on account of the *vakeel's* fee, but the amount of the fee which may be ultimately awarded by the court under Section 35, shall be levied in the manner prescribed for the execution of decrees, in all instances in which the interposition of the authority of the court may be requisite for the purpose of realizing such fee.

Specification of the rates of fees payable to *vakeels* in regular suits.

XXV. *First.* In all regular suits, which may be instituted, either originally or in appeal, subsequently to the 1st February 1815, in any of the *zillah* or city courts, the provincial courts, or the Sudder Dewanny Adawlut, the *vakeels* employed by the respective parties are to be allowed, for pleading the causes of their clients, the rates of fees calculated as follows:

In suits for money, effects, or for other personal property, or for land or other immoveable property of any description, if the amount or value of the claim, estimated according to the provisions of Section 14, Regulation I. 1814, shall not exceed 5,000 sicca rupees, five per cent.

If the amount or value shall exceed 5,000 rupees, and shall not exceed 20,000 sicca rupees, on 5,000 as above, and on the remainder, two per cent.

If the amount or value shall exceed 20,000 rupees, and shall not exceed 50,000 rupees, on 20,000 as above, and on the remainder, one per cent.

If the amount or value shall exceed 50,000 sicca rupees, and shall not exceed 80,000 sicca rupees, on 50,000 as above, and on the remainder eight annas per cent.

If the amount or value shall exceed 80,000 rupees, the fee to the *vakeel* shall be one thousand rupees, and shall in no instance exceed that sum, however great may be the value or amount of the suit in which such *vakeel* may be employed.

Second. In all the preceding calculations, where the amount or value may be in fractions of rupees, such fractions are to be rejected in calculating the fees thereupon.

Fractions of rupees to be rejected in the preceding calculations.

Third. The rules heretofore in force, providing for a deduction of five per cent. from the amount of the fees payable to *vakeels*, having been rescinded by Regulation I. 1814, it is hereby declared, that the *vakeels* are to receive the full amount of their fees without any deduction whatsoever; provided nevertheless, that for every sum which may be paid to a *vakeel* by a civil court, on account of his fees, such *vakeel* shall give a receipt, written on the stampt paper prescribed in Section 11, Regulation I. 1814.

Prescribed fees to be received without any deduction.

But a receipt to be given for them on stampt paper.

XXVI. *First.* If the decree shall be given against the defendant or respondent, and the whole of the money or property, which may be demanded by the appellant or plaintiff, shall be decreed to him, a sum equal to the whole of the fees of his pleader shall be adjudged to the plaintiff or appellant, in addition to the other costs which may be awarded to him; but if only a part of the money or property claimed is decreed to the plaintiff or appellant, a sum bearing the same proportion to the money or to the value of the thing decreed, as the fee did to the demand stated in the plaint or appeal, is to be decreed and added to the costs, which may be awarded to the plaintiff or appellant.

Pleaders' fees how to be charged in the judgment.

Second. If the suit of the plaintiff or appellant shall be dismissed, whether upon an investigation of the merits or otherwise, the plaintiff, or appellant, is to be charged with the fees of his own pleader and with those of the defendant or respondent.

Continuation of the same subject.

Third Provided, however, that if in any instance the payment of the pleaders, fees, according to the preceding rules, should not appear to be just and equitable, the courts of civil judicature may exercise their discretion in charging the fees of the pleaders to the parties respectively, in such proportions, as may appear equitable and proper, under a consideration of all the circumstances of the case.

Proviso.

XXVII. The courts of civil judicature are to insert in their decrees all sums paid or payable by the parties under the regulations, on account of fees or stampt duties, as well as on account of compensation for the expense of witnesses, and of subsistence money to *peons* employed in serving the process of the courts, and of all other costs and expenses of the suit. Such costs and expenses shall be ultimately charged to the parties cast, or to the parties respectively, in such proportions as the court may deem equitable.

All legal expenses and costs to be included in the decree; and to be charged to the parties in such mode as may appear equitable.

XXVIII. When a suit in which one of the parties may have been admitted to plead as a pauper, may be decided with costs in favour of the adverse party, and such pauper cannot make good the full amount of the costs awarded against him, the courts are authorized to return to such adverse party, any portion of the fee, deposited by him on account of his *vakeel*, which may be deemed expedient, and to pay the remaining portion of the fee to the *vakeel* entitled to receive it; in exercising this discretion, the courts will be careful, that the *vakeel* receive such a portion of the deposit as may in each instance appear to be a reasonable remuneration for the duty performed by him. The courts shall further endeavour to realize the remainder of the fee due to such *vakeel*, from any property which may subsequently be found to belong to the pauper.

Discretion vested in the courts to return a portion of the pleader's fee in certain cases to the party who may have deposited it.

XXIX. Upon a decision being passed by the court, whether upon an investigation of the case or otherwise, the fees of the pleaders deposited in the court, shall be paid to the persons respectively entitled to receive them, and such payment shall not be stayed or postponed, in consequence of an appeal being preferred from the decision.

Pleaders' fees to be paid on the determination of the suit.

XXX. *First.* The parties in a suit are respectively permitted to entertain two or more pleaders, who shall either divide the authorized fee between them, in an equal, or in any other proportion, which may have been previously agreed upon between them and their constituent; or shall each be entitled to receive the full established fee, as may be specified in the *vakalutnumah*; but all stipulations to this effect shall be distinctly stated in the *vakalutnumah*, which shall otherwise be construed to entitle the whole of the *vakeels* appointed by it to an equal division of the established fee and no more.

Rules where two or more pleaders may be employed by the same party.

In such cases one *vakalutnamah* only is requisite.

Second. It shall be sufficient in such cases for the party employing two or more *vakeels* in the same suit, to file a single *vakalutnamah*, but the party shall be required to deposit in court, the whole amount of the fees payable to his pleaders, under the rules contained in Section 23.

When two or more pleaders may be employed, the adverse party shall in no case pay more than the prescribed fee for one pleader.

Third. If the party shall agree to pay to each of the *vakeels* employed by him the full amount of the authorized fee, the opposite party in the suit shall in no case be required to make good more than the fee of one of those pleaders, or such part of that fee as may be adjudged against him by the court. The fees of the other pleader are to be considered as a separate expense to be defrayed exclusively by the party entertaining him, and for which he is not to be reimbursed in any case whatever.

Rules for the payment of *vakeels'* fees when the suit may be withdrawn or dismissed without an investigation of the merits of the case.

XXXI. *First.* If a suit shall be withdrawn or dismissed on default without a determination upon the merits of the case, before all the requisite pleadings shall have been filed in court, the respective pleaders of the plaintiff and defendants, or of the appellant and respondent, shall each be entitled to only one-fourth of the established fee which they would have received, had the suit been brought to a regular decision by the court. If a suit shall be withdrawn or dismissed on default, after all the requisite pleadings shall have been filed in court, the respective pleaders are to be entitled to one-half the fees which they would have received, if judgment had been given in the cause. The fees in both of the abovementioned cases are to be charged to the plaintiff or appellant withdrawing the suit, or suffering it to be dismissed on default, together with all the admitted costs incurred by the defendant or respondent.

Rules applicable to the fees of pleaders in suits adjusted by *razeenamah*.

Second. The same rule shall be considered applicable to cases adjusted by *razeenamah*, except that the fees of the pleaders and all other costs of the suit shall be paid by the parties, in such manner and proportions as may have been agreed upon and inserted in the *razeenamah*.

Pleaders employed in summary suits to receive only one-fourth of the fee prescribed in regular suits.

XXXII. The* vakeels, *who may be employed by the respective parties in summary suits and summary appeals for the recovery of arrears of rent or revenue, or for recovering the possession of land, and generally in all other suits and appeals, in which a summary process is authorized by the regulations, are to be allowed for pleading such summary suits, a fee equal to one-fourth of the fee, which they would have received, had such suits been instituted as regular and not as summary suits.*

Such fees to be deposited in court, as in regular suits.

XXXIII. The fees, which may be payable under the foregoing section, shall be deposited in court, and paid to the vakeels *entitled to receive them, in the same manner as is prescribed in regular suits under the preceding rules of this regulation.*

Pleaders to receive a fee of four annas for presenting miscellaneous petitions and applications.

XXXIV. The pleaders in the several courts of civil justice are permitted to demand, and receive a fee of four annas for each miscellaneous petition or application which they may present, or motion which they may make, in writing to the court, provided that such petition, application, or motion, shall not relate to any suit depending before the court, wherein the person, on whose behalf they may present such petition, or application, or make such motion, may be a party; but all petitions, applications, or motions presented or made to any of the courts on behalf of parties in a suit, on which the fees prescribed by Sections 25. and 32, may have been paid, or may be payable, are to be considered as paid for, by the fee allowed to the pleaders in the abovementioned sections; and the pleaders are to make all such motions and do all such acts as may be requisite relative to any suit, in which they may have been entertained, not only during the trial of such suit, but after a decision shall have been passed, until the final judgment shall have been enforced.

Unless such applications may be connected with a suit, in which the pleader is or may have been employed.

Mode in which such fee is to be paid.

Provisions for the payment of a higher fee, in cases on which it may appear to be equitable.

XXXV. The fee of four annas for miscellaneous petitions and motions, prescribed in the above section, is not required to be deposited in the court, but is to be paid by the party himself to the *vakeel*, at such time as may be mutually agreed upon; but as cases may occur, in which the above fee of four annas may not be a sufficient compensation to the pleader or pleaders, the several courts of civil justice are authorized to award such additional fee in any instance as they may consider to be a reasonable compensation to the pleader for the duty performed by him, and to cause payment thereof to be made, either by the party who may have employed such pleader or pleaders, or as costs of suit by the opposite party, as may be deemed just and proper; provided however, that the compensation which may be

* Section 31. and 32. are rescinded by clause first, Section 9, Regulation XIX. 1817.

awarded in such cases, shall in no instance exceed one-fourth of the established fee to which the pleader or pleaders would have been entitled on a regular suit in the case in question.

Pleaders to give written receipts for documents entrusted to them by their clients.

XXXVI. Pleaders are to give written receipts on unstampt paper for all accounts, writings, or documents, which may be delivered to them by their clients in the course of any suit, or process: if a pleader shall refuse to return such accounts, documents, or writings; the court, upon a petition being presented to them for that purpose by the owners of the papers so withheld, shall cause them to be restored.

Rules for the appointment of pleaders on the part of Government.

XXXVII. *First.* One or more of the authorized pleaders of the Sudder Dewanny Adawlut, of the provincial courts, and the *sillah* and city courts, shall be appointed for the purpose of conducting the prosecution or defence of any suits in those courts respectively, which may be directed to be carried on at the public expense, by any regulation or by a special order from the Governor General in Council, or other authority competent to pass such order. Those pleaders shall be furnished with a *sunnud* or written authority to that purport, in the English and Persian languages, under the signature of the secretary to Government in the judicial department, and the *sunnud* shall be drawn up according to the form No. 5, of the appendix to this regulation.

The death or removal of a pleader on the part of Government, as well as the nomination of a successor, to be reported to the secretary to Government in the judicial department.

Second. The several courts of justice shall report to the secretary to Government in the judicial department, the death, resignation, or removal of any of the *vakeels* of Government attached to their respective courts; and shall at the same time nominate for the approbation of Government, a proper person, being one of the authorized *vakeels* of the court, to succeed to the vacant office. The courts shall in all instances select from amongst the established pleaders, such individual as may appear best qualified for the situation by his character and capacity.

Duties to be performed by pleaders on the part of Government.

Third. The pleaders for Government are to undertake all causes which they may be directed to plead by orders from Government, or which may be directed by any regulation, to be carried on at the public expence, upon receiving an order for that purpose, either from Government, or from any officer or officers empowered by any regulation to superintend, and to furnish instructions for conducting such suits. The order of Government, or of such officer or officers, is to be filed in court as the authority of the pleader to plead the cause, and is to to form part of the record of the proceedings.

Such pleaders prohibited from advising parties opposed to Government.

Fourth. The pleaders of Government are prohibited from giving any advice to the parties opposed to Government in any civil suit or proceeding, and from being concerned directly or indirectly on their behalf, in suits which are directed to be carried on at the public expense; but in all other suits the pleaders of Government are to be at liberty to plead for either of the parties, in the same manner as the other authorized pleaders of the court.

What fees they are entitled to receive.

Fifth. The pleaders for Government are to be paid the same fees in causes directed to be pleaded at the public expence, as pleaders employed in causes between individuals, and under the same rules and restrictions; provided however, that the previous deposit, prescribed in Section 23. of this regulation, shall not be required for the fees, payable to the pleaders of Government, in the prosecution or defence of suits conducted at the public expense.

To be guided by the same rules as pleaders in other suits.

Sixth. In pleading suits directed to be carried on at the public expense, the pleaders for Government are to be subject to all the rules prescribed for their guidance when pleading on behalf of individuals, except in matters or cases in which it may be otherwise specially directed by any regulation.

Another pleader may be associated with the pleader of Government in carrying on suits at the public expense.

Seventh. The Board of Revenue, the Board of Commissioners in the upper provinces, the Board of Trade, or any other authorities, entrusted with the management of suits on the part of Government, are empowered to associate with the established *vakeel* of Government, any other authorized pleader, in cases in which such aid may, from the importance of the suit, or any other reason, be judged necessary or advisable. Such additional pleader shall be furnished with a *vakalutnamah*, duly authenticated by the officer or authority employing him, and shall be entitled to receive the same fees, and under the same rules and restrictions, as if he were employed on the part of an individual, subject however to the provision contained in clause fifth of this section.

Individuals not prohibited from pleading their own suits.

XXXVIII. No part of this regulation is to be construed to prohibit or to prevent any individual from appearing and pleading his own cause in person, in any of the courts of civil judicature, without employing an authorized pleader.

This regulation not applicable to pleaders in *moonsiffs'* courts, but in pauper suits is to be construed with reference to the provisions of Sections 7. 10, and 15, Regulation XXVIII. 1814.

XXXIX. *First.* The provisions of this regulation are not intended to apply to *vakeels*, who may be employed in the courts of the *moonsiffs*, under Regulation XXIII. 1814.

Second. It is hereby further declared, that the provisions of this regulation are to be construed with reference to Sections 7, 10, and 15. of Regulation XXVIII. 1814, in suits where one or both of the parties may be permitted to plead *in formâ pauperis*, in conformity with the rules contained in that regulation.

The Regulations are to be exposed for the public inspection, and the pleaders are required to make extracts from them.

XL. That the pleaders in the several courts, as well as all other persons, may have it in their power to render themselves acquainted with the regulations enacted by the British Government, there shall be kept, for public inspection, in the several courts of judicature, printed copies of all such regulations and of the translations in the native languages, bound up with the annual indexes. Until the regulations, which may be passed in each year are so bound up, the separate copies of each regulation, with the translations, which may be printed and circulated to the courts, are to be exposed as above directed. The regulations are to be deposited upon a table expressly allotted for that purpose in some part of the court-room, and to lie for public inspection every day, Sunday excepted, during the ordinary hours of business, when the pleaders of the courts and all other persons are to be at liberty to refer to the regulations, or to take copies or extracts from them in the court-room: on receipt of the translations of the regulations in the country languages, the several courts of civil justice shall cause the same to be publicly read in their *cutcherrees*, and shall require the native pleaders of their respective courts to take copies of any of those translations, which relate directly or indirectly to the administration of civil justice.

APPENDIX.

No. 1.

SUNNUD to be granted to *Vakeels*.

In conformity with the provisions of Regulation XXVII. 1814, you A. B. are hereby appointed to the office of pleader in the Sudder Dewanny Adawlut, or in the provincial court for the division of ———, or in the *zillah* or city court of ———. You will not be liable to be removed from your situation so long as you may conduct yourself with propriety, and discharge your duty with zeal and integrity, under the rules contained in the regulations which now are, or may hereafter be, in force.

No. 2.

OATH to be administered to *Vakeels*.

I A. B. solemnly swear, that I will truly and faithfully execute the duties of pleader of the Sudder Dewanny Adawlut, or the provincial court for the division of ———, or the *adawlut* of the *zillah* or city of ———, to the best of my knowledge and judgment.

No. 3.

RECEIPT to be granted for deposits, made on account of *Vakeels'* fees.

I A. B. treasurer of the court of ———, do hereby acknowledge to have received this ——— day of ———, the sum of sicca rupees ———, being a deposit made by ———, on account of the fees, payable to his *vakeel* or *vakeels* in suit, No. ———, in which the value or amount, claimed by the plaintiff or appellant, amounts to sicca rupees (———).

No. 4.

REGISTER of DEPOSITS on account of *Vakeels' fees*.

Number of the suit, and date of its institution.	Value or amount claimed.	Amount of deposit on account of the plaintiff or defendant, &c. &c.	By whom deposited, and for what *vakeel* or *vakeels*.	Date of the deposits, and of the receipt for it.	Date of the payment to the *vakeel*, and of his receipt.
No. 759, 25th July, 1815.	700 Rs.	Rupees 35 on account of Ramsing appellant.	By Tarneechurn, *moktar* of the appellant, for Meersyfoo *vakeel*.	10th of August, 1815.	

No. 5.

SUNNUD to be granted to the pleaders of Government in the English and Persian languages.

In conformity with the provisions of Regulation XXVII. 1814, you A B. are hereby appointed to the office of pleader, on the part of Government, in the Sudder Dewanny Adawlut, or in the provincial court for the divisions of ———, or in the *zillah* or city court of ———. You will not be liable to be removed from your office so long so you may conduct yourself with propriety, and discharge your duty with zeal, ability, and integrity, under the regulations which are now in force, or which may hereafter be enacted.

A. D. 1826. REGULATION XI.

A REGULATION *for providing a Succession of duly qualified Hindoo and Mahomedan law Officers, in the several Courts of Justice, and for enacting an additional Rule for the Appointment of Vakeels in the zillah and city Courts.*—PASSED *by the Vice-President in Council, on the 4th August* 1826; *corresponding with the 21st Sawun* 1233 *Bengal era; the 16th Sawun* 1233 *Fussily; the 22d Sawun* 1233 *Willaity; the 1st Sawun* 1883 *Sumbut; and the 28th Zeheja* 1241 *Higeree.*

Preamble.

WHEREAS the power formerly exercised by the Governor General in Council of confirming the appointment of the law officers of the provincial, *zillah*, and city courts, was transferred to the court of Sudder Dewanny Adawlut, by Section 4, Regulation VIII. 1809, and considerations which are connected with measures in progress under the immediate control of Government for promoting education amongst the natives of these provinces, and for securing the services of the most able and learned persons for those high offices, have suggested the expediency of altering the rules now in force for the nomination and appointment of the law officers in the several courts of justice, and of vesting the confirmation of all such appointments in the executive Government: and whereas it is deemed advisable to provide by a specific enactment, in addition to the rules contained in Section 3, Regulation XXVII. 1814, for the admission of qualified students at the public colleges under this presidency to hold the office of *vakeel* in any of the *zillah* and city courts; the following rules have been passed by the Vice-President in Council, to be in force, from the date of their promulgation, throughout the whole of the provinces immediately subject to the presidency of Fort William.

Regulations V. 1804, VIII. 1809, and XVIII. 1817, modified.

II. The rules contained in Regulations V. 1804, VIII. 1809, and XVIII. 1817, or in any other regulation now in force, relative to the nomination and appointment of the law officers of the several courts of justice, are hereby declared subject to the modification contained in the present regulation: provided however, that nothing in this regulation shall be construed to alter or affect the power vested in the court of Sudder Dewanny Adawlut by Section 4, Regulation VIII. 1809, of confirming the removal of the law officers of the provincial, *zillah*, and city courts; or to alter any part of the rules now in force respecting the removal of a law officer attached to any of those courts.

Proviso.

The law officers of the Sudder Dewanny Adawlut and Nizamut Adawlut, how to be appointed and removed.

III. The appointment and removal of the law officers of the Sudder Dewanny Adawlut and Nizamut Adawlut, shall be reported as heretofore for the previous sanction of the Governor General in Council; subject to the further provisions contained in the present regulation.

The law officers of the provincial, *zillah*, and city courts, to be hereafter appointed by the Governor General in Council.

IV. *First.* The law officers of the provincial courts of appeal and circuit, and of the *zillah* and city courts, shall hereafter be appointed by the Governor General in Council.

Rule to be observed on the removal, death, or resignation, of a law officer.

Second. Whenever a law officer may be removed from his station, or whenever a vacancy may occur in the office of law officer in any of the courts of justice, from death, resignation, or otherwise, the judge or judges of the court in which the removal or vacancy may have occurred, shall nominate for the approbation of the Governor General in Council, a person duly qualified to succeed to the station so vacated, and shall at the same time report fully the

the past employments, character, qualifications, and age of the proposed successor, and likewise whether he has obtained the prescribed certificate of qualifications hereafter noticed: the Governor General in Council, on consideration of such report, or after calling for any further information that may appear necessary, will either confirm the person so nominated to fill the vacated office; or will issue orders for his examination; or appoint any other person whom he may deem better qualified for the office.

No person to be appointed a law officer, who shall not have obtained a certificate of qualification.

V. *First.* After the promulgation of this regulation no person shall be appointed to be a Hindoo or Mahomedan law officer in any of the courts of justice under this presidency, who shall not have obtained a certificate of qualification (in one of the forms, A. or B. contained in the appendix), after having undergone an examination, to be conducted in the manner hereafter noticed, by a committee, consisting of such persons as the Governor General in Council may, from time to time, be pleased to appoint for that purpose.

Annual examination of candidates for the situation of law officer, to be held before a committee.

Second. Public examinations shall be held before the committee early in each year, or at such periods as may be fixed by order of the Governor General in Council, of all persons who may offer themselves as candidates for the office of law officer, the result of which shall be reported to Government, and so many of the candidates as shall be found upon examination to be eminently qualified for the office of Hindoo or Mahomedan law officer, shall receive from the committee a certificate of qualification in the form A. contained in the appendix to this regulation.

Persons who may not have previously obtained a certificate of qualification, how to be examined.

Third. Whenever any person, who may be nominated to the office of law officer by the Sudder Dewanny and Nizamut Adawlut, by the provincial court of appeal and circuit, or by the *zillah* or city judge, shall not have previously obtained a certificate of qualification, the Governor General in Council will issue such orders as may be deemed proper for the examination of such person; either before the committee at the presidency, or by means of written interrogatories to be transmitted by the committee to the judge or judges of the court in which the vacancy of law officer may have occurred, in whose presence the answer to such interrogatories shall be written by the person nominated forthe vacant office; or by such other mode, as under the direction of the committee at the presidency may be calculated to ensure a fair and impartial examination of the candidate.

The committee to report the result of their examinations, and grant certificates to candidates who may be duly qualified.

Fourth. The committee at the presidency shall report the result of the examination, prescribed in the foregoing clause, for the information of Government; and in the event of the candidate being declared duly qualified for the office of Hindoo or Mahomedan law officer, (as the case may be,) such candidate shall receive from the committee, a certificate of qualification according to one of the forms A. or B. with reference to the mode in which the examination of the candidate shall have been conducted.

A native student in any of the public institutions under this presidency who shall have received a certificate of qualification, shall be admitted to practise as a *vakeel* in any of the *zillah* and city courts on application;

VI. In addition to the rules contained in Section 3, Regulation XXVII. 1814, for the nomination and appointment of *vakeels* in the several *zillah* or city courts, it is hereby enacted, that, after the promulgation of this regulation, any native student who may have been educated, or have received instruction at one of the public institutions under this presidency, and who shall have received a certificate of adequate proficiency in the laws and regulations, and of good character, from the superintending committee of any of the public colleges supported by Government, according to the form C. in the appendix to this regulation, shall, on making application to any of the courts above-mentioned, be entitled to receive a *sunnud* of appointment to practise as a *vakeel* in the *zillah* or city court to which the application may be made, unless the number of *vakeels* already attached to such court, (including those allotted to the courts of the register and *sudder ameens* in pursuance of Section 16, Regulation XXVII. 1814,) shall render the immediate admission of any additional *vakeel* or *vakeels* highly inconvenient and objectionable, in which case the admission of the person so applying may be postponed by order of the judge of the court, so long as shall appear necessary. Provided always, that every person, previously to his being admitted to practise as a *vakeel*, shall take and subscribe before the said court, the oath, or solemn declaration in lieu thereof, required by clause first, Section 5, Regulation XXVII. 1814, and shall be held liable for misconduct to be deprived of the *sunnud* granted to him by the court, and to all the penalties to which the *vakeels* of the courts of justice are declared subject, by the regulations which have been or may be enacted.

Unless strong objections exist to his admission.

Proviso.

APPENDIX.

A.

Certificate of a Hindoo or Mahomedan Law Officer.

(Seal of the Committee.)

We hereby certify, that at an examination held at the presidency of Fort William on the ——— by the committee appointed under the provisions of Regulation XI. 1826, A. B. was found and declared to be qualified, by his eminent knowledge of the Hindoo (or Mahomedan) law, to hold the office of Hindoo (or Mahomedan) law officer, in any of the established courts of judicature.

(To be signed by the president, and not less than two members of the committee of examination.)

This certificate has been granted to the said A. B. under the seal of the committee, this ——— day of ——— in the year ——— corresponding with the (Mahommedan or Hindoo date.)

C. D.

Secretary to the committee.

B.

FORM of certificate of a Hindoo (or Mahomedan) law officer, when examined at a special examination.

(Seal of the Committee.)

We hereby certify, that the committee of examination at the presidency of Fort William, having duly considered the proceedings held on the examination of A. B., conducted under the provisions of clause third, Section 5, Regulation XI. 1826, do consider the said A. B. to be duly qualified, by his knowledge of Hindoo (or Mahomedan) law, to hold the office of Hindoo (or Mahomedan) law officer in any of the established courts of judicature.

(To be signed by the president, and not less than two members of the committee of examination.)

This certificate has been granted to the said A. B. under the seal of the committee, this ——— day of ——— in the year ——— corresponding with the (Mahomedan or Hindoo date to be here inserted.)

C. D.

Secretary to the Committee.

C.

CERTIFICATE of a student in any of the colleges established by Government, who may be declared qualified to be admitted as a *vakeel* in any of the *zillah* or city courts.

(Seal of the College.)

We hereby certify, that at an examination of the students in the (Hindoo or Mahomedan) college at ———held on the———, A. B. was found qualified, by his proficiency in the Hindoo (or Mahommedan) law, and in the regulations of the British Government, to discharge the duties of pleader in any of the *zillah* or city courts.

We further certify, that the said A. B. is reported by the officers of the college to be of good character, and to have conducted himself with propriety during the time he has been attached to the college.

(To be signed by the examiners.)

This certificate has been granted to the said A. B. under the seal of the college this ——— day of ——— in the year ——— corresponding with (the Mahomedan or Hindoo date.)

C. D.

Secretary to the College.

A. D. 1793. REGULATION XLVI*.

A REGULATION *for admitting Persons of certain Descriptions to sue in the Courts of civil Judicature as Paupers.*—PASSED *by the Governor General in Council, on the* 1*st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

THAT *persons unable to appear and plead their own causes may not be debarred from the recovery of their rights, in consequence of not being able to give the security required by Regulation VII.* 1793, *for the payment of the fees of the pleaders, and at the same time that individuals may be deterred from preferring groundless or litigious suits, and evading entering into the required security for the payment of the prescribed fees under the pretext of inability to procure it, the following rules have been enacted:*

Courts empowered to admit persons to plead as paupers, on their giving security for their appearance.

II. If any person who may be desirous of referring a suit to any of the courts of civil judicature, and who may be precluded from pleading his cause in person, shall represent that he is unable to give the security required by Section 9, *Regulation VII.* 1793, *for the payment of the fees of the* vakeels, *and such inability shall be proved to the satisfaction of the court by the oath of the plaintiff, or appellant, and of two credible witnesses that they believe such oath to be true, the court is empowered to admit the suit, on the plaintiff or appellant finding two good and sufficient sureties for his appearance, whenever his attendance may be required by the court.*

Courts how to proceed, in the event of the plaintiff or appellant being cast, and the suit proving litigious or vexatious.

III. If the plaintiff or appellant shall not establish his claim, and the court shall deem the suit frivolous or vexatious, and the plaintiff or appellant shall not pay the amount of his own fees, and the fees and costs which may be awarded against him in favour of the opposite party, the court is authorized to commit him to close custody for any space of time not exceeding three months; and if the two sureties shall not produce the plaintiff or appellant so that he may be proceeded against as above directed, or cause the fees and costs to be paid, the court shall commit such sureties to the common jail for any space of time not exceeding three months; and the plaintiff or appellant or the sureties who may be so committed, after he or they shall have been confined for the prescribed time, shall be discharged. But if a plaintiff or appellant who may have sued as a pauper under this regulation, and who may have been cast, and shall not have paid the fees and costs, shall afterwards be found to possess property sufficient to make good the amount, the court, whether the suit shall have been pronounced litigious or otherwise, are to proceed against such property for the recovery of it.

Fees and costs awarded against paupers found to possess property adequate to the discharge of the amount, to be recovered by the court.

By whom the fees of the vakeels *of paupers are to be made good, in the event of their gaining the suit.*

IV. If a plaintiff or appellant suing as a pauper under this regulation, shall gain his suit, the court are to cause the defendant or respondent to make good the amount of the fees to the vakeel *suing for such pauper, or such part of it as the court may decree.*

Authorized vakeels *allowed to undertake the suits of paupers.*

V. The authorized vakeels *in the several courts are permitted to undertake the causes of paupers under this regulation.*

Provision for cases in which paupers shall be unable to prevail on the vakeels *to undertake their suits under this Regulation.*

VI. If a pauper shall be unable to prevail on any of the vakeels *to undertake his suit under this regulation, and the court shall be satisfied of his inability to plead the cause in person, the court may, in cases in which for special reasons it may deem it proper so to do, require one of the* vakeels *of the court to undertake and plead the suit. The courts are to enter on the record of the trials, their reasons for every exercise of the power vested in them by this section.*

* Rescinded by Sec. 2, Reg. XXVIII. 1814.

A. D. 1795. REGULATION XXIII*.

A REGULATION *for extending to the Province of Benares, Regulation XLVI.* 1793, *entitled, A Regulation for admitting Persons of certain Descriptions, to sue in the Courts of Civil Judicature as Paupers.*—PASSED *by the Governor General in Council, on the* 27*th March* 1795 ; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity ; the* 22*d Chyte* 1852 *Sumbut ; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

THE *reasons assigned in the preamble to Regulation XLVI.* 1793, *for admitting persons of certain descriptions to sue as paupers, in the courts of civil judicature, in the provinces of Bengal, Behar, and Orissa, being equally applicable to the province of Benares, the following rule has been enacted.*

Regulation XLVI. 1793 *extended to Benares.*

II. Regulation XLVI. 1793, *is hereby extended to the province of Benares.*

Rescinded by Section 2, Regulation XXVIII. 1814.

A. D. 1802. REGULATION III.

A REGULATION *for defining the Security to be required from Defendants in civil Causes; and for amending Part of the existing Rules concerning the Trial of civil Suits preferred by Paupers.*—PASSED *by the Governor General in Council, on the* 22*d April* 1802; *corresponding with the* 11*th Bysaak* 1209 *Bengal era; the* 4*th Bysaak* 1209 *Fussily; the* 11*th Bysaak* 1209 *Willaity; the* 4*th Bysaak* 1859 *Sumbut; and the* 18*th Zeelhij* 1216 *Higeree.*

Preamble.

THAT persons unable to attend the courts of justice in person, or to give the security required by Regulation VII. 1793, for the payment of the fees of a pleader, or to pay the institution fee upon original suits and appeals, established by Regulation VI. 1797, might not be precluded by such inability from suing for the recovery of their rights in the civil courts of judicature; or from obtaining the assistance of the pleaders attached to these courts in the prosecution of their claims; provisions have been made by Regulation XLVI. 1793, (extended to Benares by Regulation XXIII. 1795,) and by Section 9, Regulation VI. 1797; whereby all persons making oath of their inability to pay the prescribed institution fee, and to give the security required for the fees of a pleader (if they are desirous of entertaining a pleader,) and producing two credible witnesses to verify the same, with sureties for their personal appearance, are admitted to sue as paupers, in the *zillah* and city courts; and also to prosecute appeals from the decisions of these courts in the provincial courts of appeal and Sudder Dewanny Adawlut, without any expence whatever; unless they shall afterwards be found to possess property sufficient to make good the amount of the prescribed fees. At the same time the parties sued by such paupers, in addition to the charge usually incurred in procuring the security required from defendants by Section 5, Regulation IV. 1793, and Section 3, Regulation XI. 1797, are liable to a considerable charge for the fees of pleaders necessarily employed by them to defend the original suit or appeals, for which they can seldom obtain any indemnification from the pauper plaintiff and appellant; although the claim of the latter should be dismissed in every court. Under these circumstances, the provisions made for facilitating the attainment of justice to paupers have been perverted by them to the means of injustice and persecution by groundless and exaggerated claims, which are prosecuted as far as the regulations will allow, with a view to harass the defendant, or to compel his admission of what may not be justly due from him; and the rule contained in Regulation XLVI. 1793, for preventing such groundless and vexatious suits, by subjecting the party preferring them to confinement for a period not exceeding three months, not having been found sufficient for this purpose, the Honorable the Vice-President in Council, to provide more effectually against so flagrant an abuse, as well as to relieve the parties who may be affected thereby, has enacted the following additional rules, to be in force as soon as promulgated throughout the provinces of Bengal, Behar, Benares, and that part of Orissa which is subject to the dominion of the Company.

The *zillah* and city judges authorized to exercise their discretion with respect to security for the

II. In all cases of suits preferred in the *zillah* or city courts, whether by paupers or by others, the judge before whom the suit may be instituted, is authorized to fix the extent of the security to be required for the appearance of the defendant in conformity to Section 5, Re-

appearance of defendants in the first instance, and

gulation IV. 1793, (extended to Benares by Regulation VIII. 1795,) and for which a form of bond is prescribed in Section 3, Regulation XI. 1797, viz. the judge shall exercise his discretion with respect to the responsibility of the surety or sureties to be found by the defendant for his personal attendance when required, as specified in the above regulations; and in the first instance, whatever may be the claim of the plaintiff, shall demand from the defendant such security only as may appear necessary to secure his appearance during the trial of the suit.

May require further security, if in the course of the trial the security so taken shall appear insufficient.

Provided, that if at any time in the course of the trial the security so taken from the defendant shall appear to the judge insufficient, he is authorized and required to take such further security as he may think necessary to secure the appearance of the defendant; and if judgment be given against the defendant, in the *zillah* or city court, the judge shall immediately proceed to execute such judgment in conformity to the regulations; or, if the case be appealable, and an appeal be lodged in the mode prescribed by the regulations, shall immediately take the security therein directed for staying the execution of decrees in cases of appeal.

In cases of appeal, the provincial court are likewise authorized to require additional security when they may deem it necessary.

In like manner, during the trial of an appeal from the decree of a *zillah* or city court in favour of the original defendant, if the provincial court before whom such appeal may be depending, shall see ground to believe that the personal security taken from the respondent is insufficient, it is authorized and required to take from him such further security as it may judge necessary; and in the event of its passing judgment against the respondent, shall immediately proceed as above directed with respect to judgments against defendants in the *zillah* or city courts.

The Sudder Dewanny Adawlut vested with like power in similar cases.

In all cases of appeal to the Sudder Dewanny Adawlut, that court is also authorized to take any additional security it may judge necessary, as already provided with respect to security for staying the execution of decrees, by Section 3, Regulation V. 1798.

In cases of suits preferred by paupers, and decided against them, the courts are authorized to limit the defendant's costs to what may appear an adequate compensation for the labour of his pleader, leaving the rest of the established fees to be levied from the eventual property of the plaintiff.

III. In cases of suits preferred by paupers in the* zillah *or city courts, wherein the claim of the plaintiff may be dismissed with costs, and he may not be found to possess property sufficient to make good the fees of the defendant's pleader, the payment of which must consequently fall upon the defendant although the decision is in his favour, if the amount of the established fee shall appear to the judge to exceed a just compensation to the pleader or pleaders employed by the defendant, on a review of his or their labour, considered with all the circumstances of the case, the judge is authorized and required to levy from the defendant such part only of the established fee as may appear an adequate compensation to his pleader or pleaders; leaving the remainder to be recovered from any property that may be subsequently found to belong to the plaintiff, under the provision contained in Section 3, Regulation XLVI. 1793. The provincial courts of appeal and court of Sudder Dewanny Adawlut are to proceed in like manner, in similar cases, wherein the appellant in these courts respectively may have been admitted as a pauper, and his appeal may be dismissed with costs. The principle of this section is also to be applied in the whole of the civil courts of judicature to any case wherein the suit of the plaintiff or appellant, though not admitted as a pauper, may be dismissed with costs; and from his want of property to make good the same, as well as from the eventual irresponsibility of his sureties for the costs of suit, or from whatever cause, it may become necessary to levy from the defendant or respondent the fees of his own pleader or pleaders, although the judgment may have been passed in his favour.*

The same principle extended to the courts of appeal and Sudder Dewanny Adawlut.

And applied to cases in all the courts, where the plaintiffs, or appellant, or his sureties, are unable to make good the costs awarded against them.

Similar powers vested in the registers.

IV. The powers vested by the two preceding sections in the *zillah* and city judges, are declared to be equally vested in their registers, with respect to the security to be taken from defendants in causes cognizable by them under the regulations; *as well as with respect to the fees of pleaders that may eventually become payable by the parties in whose favour judgment may be given by them in such causes.*

In what cases the institution fee paid on appeal may be returned.

V. If on the suit of a pauper plaintiff tried by a native commissioner, or by a zillah *or city register, or by the judge of a* zillah *or city court, a judgment be passed in favour of the plaintiff; and the defendant appealing from such judgment, shall obtain a reversal of it, with costs; so that the final judgment may be in favour of the defendant; and the original claim be declared groundless; the institution fee paid by such defendant upon his appeal, shall be returned to him by the court into which the same may have been paid; and the amount shall be recovered from the pauper against whom the final judgment may*

* The various sections or clauses printed in italic in this regulation, are rescinded by Section 2, Regulation XXVII. or Section 2, Regulation XXVIII. 1814.

be passed, in the event of his being found to possess property sufficient to make good the same, as provided in Section 3, *Regulation XLVI.* 1793. In all other cases the court of Sudder Dewanny Adawlut is authorized to direct a return of the institution fee, or otherwise, as on due consideration of the circumstances of the case, whether brought before them in appeal, or referred to them by a provincial, *zillah*, or city court, may appear to them just and proper.

Rules for commitment of litigious pauper suitors or appellants extended.

VI. If the suit of a plaintiff admitted as a pauper in any zillah *or city court shall be dismissed in such court, and declared groundless and vexatious, the judge or register by whom the decree may be passed, shall immediately carry into execution the rule of commitment prescribed in such cases by Section* 3, *Regulation XLVI.* 1793; *whether the plaintiff shall appeal from the judgment, or otherwise; and, in the event of an appeal, if the court by whom the appeal may be heard, shall find the same groundless and vexatious, and shall consequently confirm the original judgment, they are authorized, in extension of the rule contained in Section* 3, *Regulation XLVI.* 1793, *to commit such litigious appellant (or his sureties if they shall not produce him so that he may be proceeded against as herein directed) to be confined for such period of time as they may judge proper on due consideration of the circumstances of the case, not exceeding six months inclusive of the period of confinement which may have been ordered on the original trial. The same rule is to be applied in cases of appeal, in formâ pauperis, to the court of Sudder Dewanny Adawlut, who are authorized to extend the confinement of the litigious appellant, so that the same shall not exceed one year, inclusive of the confinement which may have been ordered by the* zillah *or city court, and by the provincial court of appeal.*

A. D. 1803. REGULATION XIV*.

A REGULATION *for admitting Persons of certain Descriptions to sue in the Courts of Civil Judicature as Paupers, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the 24th of March,* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

THAT *persons unable to appear, and plead their own causes, may not be debarred from the recovery of their rights, in consequence of not being able to give the security, required by the regulations, for the payment of the fees of the pleaders, and at the same time, that individuals may be deterred from preferring groundless or litigious suits, and evading entering into the required security for the payment of the prescribed fees, under the pretext of inability to procure it; the following rules have been enacted.*

Courts empowered to admit persons to plead as paupers on their giving security for their appearance.

II. If any person who may be desirous of preferring a suit to any of the courts of civil judicature, and who may be precluded from pleading his cause in person, shall represent that he is unable to give the security, required for the payment of the fees of the vakeels, *and such inability shall be proved to the satisfaction of the court, by the oath of the plaintiff, or appellant, and of two credible witnesses that they believe such oath to be true, the court is empowered to admit the suit, on the plaintiff or appellant finding two good and sufficient sureties for his appearance, whenever his attendance may be required by the court.*

Courts how to proceed, in the event of the plaintiff or appellant being cast, and the suit proving litigious.

III. If the plaintiff, or appellant, shall not establish his claim, and the court shall deem the suit frivolous or vexatious, and the plaintiff, or appellant, shall not pay the amount of his own fees, and the fees and costs which may be awarded against him in favour of the opposite party, the court is authorized to commit him to close custody for any space of time not exceeding three months; and if the two sureties shall not produce the plaintiff or appellant, so that he may be proceeded against as above directed, or cause the fees and costs to be paid, the court shall commit such sureties to the common jail for any space of time not exceeding three months; and the plaintiff, or appellant, or the sureties who may be so committed, after he or they shall have been confined, for the prescribed time, shall be discharged. But if a plaintiff, or appellant, who may have sued as a pauper under this regulation, and who may have been cast, and shall not have paid the fees and costs, shall afterwards be found to possess property sufficient to make good the amount, the court, whether the suit shall have been pronounced litigious, or otherwise, are to proceed against such property for the recovery of it.

Fees and costs awarded against paupers found to possess property adequate to the discharge of the amount to be recovered.

Fees how to be made good on paupers gaining the suits.

IV. If a plaintiff, or appellant, suing as a pauper under this regulation, shall gain his suit, the court are to cause the defendant, or respondent to make good the amount of the fees to the vakeels *suing for such pauper; or such part of it as the court may decree.*

Vakeels allowed to undertake the suits of paupers.

V. The authorized vakeels *in the several courts are permitted to undertake the causes of paupers under this regulation.*

The whole of this regulation is rescinded by Section 2, Regulation XXVIII. 1814.

Cases in which paupers shall be unable to prevail on the vakeels *to undertake their suits.*

VI. If a pauper shall be unable to prevail on any of the vakeels *to undertake his suit under this regulation, and the court shall be satisfied of his inability to plead the cause in person, the court may, in cases, in which for special reasons, it may deem it proper so to do, require one of the* vakeels *of the court, to undertake and plead the suit. The courts are to enter on the record of the trials, their reasons for every exercise of the power vested in them by this section.*

The rules prescribed in Section 35, *Regulation X.* 1803, *equally applicable to suits instituted under this regulation.*

VII. The rules prescribed in Section 35, *Regulation X.* 1803, *shall be held equally applicable to suits preferred in the* zillah *courts by paupers, and decided against them with costs; the courts are accordingly authorized to limit the defendant's costs to what may appear an adequate compensation for the labour of his pleader, leaving the rest of the established fees to be levied from the eventual property of the plaintiff, agreeable to the mode as laid down in Section* 3.

The zillah *judges authorized to exercise their discretion with respect to security for the appearance of defendants in the first instance; and*

VIII. In suits preferred in the zillah *courts, by paupers, the judge before whom the suit may be instituted, is authorized to fix the extent of the security to be required for the appearance of the defendant in conformity to Section* 5, *Regulation III.* 1803; *and for which a form of bond is prescribed in Section* 29, *Regulation III.* 1803, *viz. the judge shall exercise his discretion with respect to the responsibility of the surety or sureties to be found by the defendant for his personal attendance, when required, as specified in the above regulation; and in the first instance, whatever may be the claim of the plaintiff, shall demand from the defendant such security only as may appear necessary to secure his appearance during the trial of the suit. Provided, that if at any time in the course of the trial, the security so taken from the defendant shall appear to the judge insufficient, he is authorized and required to take such further security as he may think necessary, to secure the appearance of the defendant; and if judgment be given against the defendant, in the* zillah *court, the judge shall immediately proceed to execute such judgment in conformity to the regulations; or, if the case be appealable, and an appeal be lodged in the mode prescribed by the regulations, shall immediately take the security therein directed for staying the execution of decrees in cases of appeal.*

may require further security, if in the course of the trial the security so taken shall appear insufficient.

In what cases the institution fee paid on appeal may be returned.

IX. If on the suit of a pauper plaintiff, tried by a native commissioner, or by a zillah *register, or by the judge of a* zillah *court, a judgment be passed in favour of the plaintiff; and the defendant appealing from such judgment, shall obtain a reversal of it, with costs, so that the final judgment may be in favour of the defendant, and the original claim be declared groundless; the institution fee paid by such defendant upon his appeal, shall be returned to him by the court into which the same may have been paid; and the amount shall be recovered from the pauper against whom the final judgment may be passed, in the event of his being found to possess property sufficient to make good the same, as provided in Section* 3. *In other cases, the court of Sudder Dewanny Adawlut is authorized to direct a return of the institution fee, or otherwise, as on due consideration of the circumstances of the case, whether brought before them in appeal, or referred to them by the provincial or* zillah *court, may appear to them just and proper.*

Rules for commitment of litigious pauper suitors or appellants extended.

X. If the suit of a plaintiff, admitted as a pauper in any zillah *court, shall be dismissed in such court, and declared groundless and vexatious, the judge or register by whom the decree may be passed, shall immediately carry into execution the rule of commitment prescribed in such cases by Section* 3, *whether the plaintiff shall appeal from the judgment, or otherwise; and, in the event of an appeal, if the court by whom the appeal may be heard, shall find the same groundless and vexatious, and shall consequently confirm the original judgment, they are authorized, in extension of the rule contained in Section* 3, *to commit such litigious appellant (or his sureties, if they shall not produce him, so that he may be proceeded against as herein directed) to be confined for such period of time as they may judge proper on due consideration of the circumstances of the case, not exceeding six months, inclusive of the period of confinement which may have been ordered on the original trial. The same rule is to be applied in cases of appeal, in formâ pauperis, to the court of Sudder Dewanny Adawlut, who are authorized to extend the confinement of the litigious appellant, so that the same shall not exceed one year, inclusive of the confinement which may have been ordered by the* zillah *court, and by the provincial court of appeal.*

A. D. 1810. REGULATION III*.

A REGULATION *for dispensing with the Oaths of Paupers, on their subscribing a solemn Declaration, in certain Cases.*—PASSED *by the Vice-President in Council, on the* 23*d January* 1810; *corresponding with the* 12*th Maug* 1216 *Bengal era; the* 3*d Maug* 1217 *Fussily; the* 13*th Maug* 1217 *Willaity; the* 3*d Maug* 1869 *Sumbut; and the* 16*th Zelhij* 1224 *Higeree.*

Preamble.

THE *rules in force for the exemption of paupers from the prescribed fees and securities in the civil courts, requiring the oath of the party; and provisions for dispensing with the oaths of witnesses in the civil courts, and of prosecutors and witnesses in the criminal courts, on their subscribing a solemn declaration, when they may be of a rank or cast which, according to the prejudices of the country, would render it improper to compel them to take an oath, not having been expressly extended to parties in the civil courts; it has been questioned whether the oath of such parties, when applying to be admitted as paupers, can in any case be dispensed with, whatever may be their rank or cast. The following rule has therefore been enacted by the Vice-President in Council, to be in immediate force throughout the whole of the provinces immediately subject to the presidency of Fort William.*

General provision for admitting the solemn declaration of a party applying to be admitted as a pauper, when of a rank or cast which would render it improper to compel him, or her, to take an oath.

II. In all cases wherein the oath of a party is required by the regulations for admission as a pauper, and such party may be of a rank or cast, which according to the prejudices of the country, would render it improper to compel him, or her, to take an oath, the judge, or other public officer authorized to admit the person in question as a pauper, is hereby declared competent to dispense with the oath of such person, on his, or her, subscribing a solemn declaration, according to the form prescribed by Section 6, *Regulation IV.* 1793; *extended to Benares by Section* 2, *Regulation VIII.* 1795; *and re-enacted for the ceded provinces by Section* 7, *Regulation III.* 1803.

Restriction against dispensing with the oaths of any parties, whose rank and condition may not be really such as to make it improper to compel them to take an oath.

Previous notice to be given of prosecution for perjury, to which a false declaration is liable, under Section 4, *Regulation II.* 1807.

III. The restriction contained in clause seventh, of Section 25, *Regulation VIII.* 1803; *(re-enacted in Section* 7, *Regulation L.* 1803:) *against dispensing with the oaths of any witnesses, whose rank and condition are not really such as, under the existing prejudice, would render it improper to compel them to take an oath, shall be considered equally applicable to all parties, who may desire to be exempted from taking an oath under this regulation. The judge, or other officer, admitting their solemn declaration, instead of an oath, shall also previously advise them, that in the event of their making a false declaration, they will be liable to a criminal prosecution for perjury, under Section* 4, *Regulation II.* 1807, *in like manner as if they had delivered a false deposition upon oath.*

Explanation that rules in force respecting paupers, are applicable to defendants and respondents in civil suits, as well as to all persons concerned in such suits, or presenting petitions to the civil courts.

IV. The rules in force, respecting paupers, including those contained in this regulation, shall be held applicable to defendants and respondents in the civil courts, as well as to plaintiffs and appellants; and generally to all parties concerned in prosecuting or defending civil suits; or presenting miscellaneous petitions to the civil courts.

* The whole of this regulation is rescinded by Section 2, Regulation XXVIII. 1814.

A. D. 1814. REGULATION XXVIII.

A REGULATION *for reducing into one Regulation, with Amendments and Modifications, the several Rules which have been passed for admitting Persons of certain Descriptions to sue in the Courts of Civil Judicature as Paupers.*—PASSED *by the Vice-President in Council, on the 29th November* 1814 ; *corresponding with the* 15*th Aughun* 1221 *Bengal era ; the* 2*d Aughun* 1222 *Fussily ; the* 16*th Aughun* 1222 *Willaity ; the* 2*d Aughun* 1871 *Sumbut ; and the* 16*th Zeheija* 1229 *Higeree.*

Preamble.

WHEREAS the rules now in force for admitting persons of certain descriptions to sue in the courts of civil judicature as paupers have tended to facilitate the institution of groundless and litigious suits, and have been productive of public inconvenience ; and whereas it has been deemed expedient to reduce into one regulation the whole of the provisions which will be applicable to persons suing *in formâ pauperis* ; the following rules have been enacted, to be in force from the 1st of February 1815, throughout the whole of the provinces immediately subject to the presidency of Fort William.

Regulations rescinded.

II. Regulation XLVI. 1793 ; Regulation XXIII. 1795 ; such parts of Sections 8, 9, 10, 11, and 12, of Regulation XXXVIII. 1795 ; and of Section 2, 3, 4, 5, and 6, of Regulation III. 1802 ; as are applicable to paupers ; Section 35, Regulation X. 1803 ; Regulation XIV. 1803 ; Regulation III. 1810, are hereby rescinded.

No pauper suits to be admitted, in which the value of the thing claimed shall not exceed 64 Rs.

III. No person shall be hereafter entitled to institute or defend any suit *in formâ pauperis* in any civil court of judicature, unless the amount or value of the thing claimed shall exceed the sum of sixty-four rupees : under this rule the *moonsiffs* are hereby strictly prohibited from receiving or trying any suits which persons may wish to prefer to them *in formâ pauperis*.

Persons preferring claims of certain descriptions not to be admitted to sue as paupers.

IV. No person shall be hereafter permitted to institute a suit as a pauper in any civil court of judicature, if the claim shall be for damages on account of loss of cast, slander, abusive language, assaults, or personal injuries of any description ; or if the claim shall be for the possession or recovery of deeds or papers, or for fines, forfeitures, or pecuniary penalties on account of any breach of the regulations.

Parties desiring to sue as paupers are to present a petition on stampt paper in person.

Proviso.

V. *First.* Whenever a party may be desirous of instituting an original suit as a pauper in any *zillah* or city court, or in a provincial court, he shall appear in person before such court, and shall present a petition, written on the stampt paper prescribed for miscellaneous petitions in Section 18, Regulation I. 1814 ; provided however, that if the party be a female of a rank and description which according to the prejudices of the country would render it improper to require her personal attendance in a court of justice, such petition may be presented by a *moktar* or agent duly authorized for that purpose.

What the petition is to contain.

Second. The petition shall contain a general statement of the nature and grounds of the demand, of the value of the thing claimed, according to the provisions of Section 14, Regulation I. 1814, of the name of the person or persons intended to be sued, and a schedule of the

whole real or personal property belonging to the petitioner, with the estimated value of such property.

Petitioner's examination to be taken on oath, with certain exceptions.

Third. The court in which such petition may be presented, or an authorized officer of the court, shall then proceed to take the examination of the petitioner, or if the petitioner be a female of the description mentioned in clause first of this section, the examination of her agent, with regard to the points above noticed; and shall question him particularly with respect to any real or personal property which the petitioner may have recently sold, mortgaged, transferred, or otherwise disposed of: such examination shall be taken on oath, unless the court should in any particular instance, judge it proper to admit a solemn declaration in lieu thereof, under the provisions now in force, or any other provisions which may be hereafter enacted.

Court to admonish the petitioner in taking his examination.

Fourth. In taking the examination of the petitioner or agent in such cases, it shall be the duty of the court to admonish him, that any wilful misrepresentation or falsehood, or the fraudulent concealment of any material fact regarding the property in the petitioner's possession, or the recent transfer of such property, will subject him to be tried for perjury, and on conviction, to the punishment which is now or may be hereafter prescribed for that crime by the regulations. The petitioner or agent shall subscribe his examination, which shall then be authenticated by the court in the usual manner.

Courts when to reject the prayer of the petition.

Fifth. If upon such examination it should appear to the court, that the petitioner is possessed of property sufficient to defray the expenses of the suit, or that he has recently sold, mortgaged, or otherwise transferred any property with the view of being admitted to sue as a pauper, the court will at once refuse to admit his suit in that form, and will refer him to the general rules in force.

Courts how to proceed, when they may be desirous of ascertaining the amount of the petitioner's property.

Sixth. If there shall appear any grounds for suspecting that the petitioner is possessed of property, or has recently transferred any property beyond that which he may have acknowledged or stated in his petition and examination, the court may issue a notice to the adverse party, signifying, that if such party shall appear within a reasonable period, to be fixed by the court, he shall be permitted to shew cause why the plaintiff should not be allowed to sue as a pauper: the court may also summon witnesses, or institute a local inquiry in the neighbourhood of the petitioner's residence, with the view of ascertaining whether the petitioner has recently transferred, or is possessed of any property beyond that stated in his examination.

When the petitioner shall have been guilty of perjury, he shall be committed to the court of circuit.

Seventh. If from the result of such inquiry, or at any subsequent period, it should be satisfactorily established, that the petitioner or the agent of a female petitioner has been guilty of wilful perjury in his examination, the court will not only refuse the prayer of the petitioner, (or nonsuit the plaintiff, if the cause be depending,) but will cause the person appearing to have been guilty of perjury to be committed to the court of circuit to take his trial for such offence.

A party admitted to sue as a pauper shall find two sureties for his appearance.

VI. *First.* If none of the objections stated in clauses fifth and seventh, of the preceding section, should exist, and the petitioner should not appear to be possessed of sufficient property to enable him to defray the probable expenses of the suit, the court is empowered to admit him to sue as a pauper, on his finding two good and sufficient sureties, both of whom shall be householders, for his appearance whenever his attendance may be required by the court.

Pauper suits not to be referred to the *sudder ameens*

Second. The suits of pauper plaintiffs which may be hereafter instituted in the *zillah* or city courts, shall be tried by the judge or register, and shall not be referred to any of the *sudder ameens*.

The courts are authorized in certain cases to direct one of the pleaders to undertake the suit.

VII. *First.* When the required sureties shall have been furnished, if the pauper shall be unable to prevail on any of the *vakeels* of the court to undertake his suit, and he shall be unable to plead the cause in person, the court may require any of the authorized pleaders of the court to undertake and plead the suit, and no deposit shall be required from the plaintiff for the fees of such pleader.

Reasons for exercising that power to be recorded.

Second. The courts are to state on the record of the trial, their reasons for every exercise of the power vested in them by this section; and the order of the court in such cases shall be

a sufficient warrant to the *vakeel* to plead in the suit without filing the usual *vakalutnamah*.

VIII. The stamp duty which has been substituted for the institution fee by Regulation I. 1814, shall not be required from plaintiffs who may be admitted to sue as paupers under this regulation. The plaint, reply, or other pleadings on the part of the plaintiff, as well as applications on his part for receiving exhibits and summoning witnesses, may be written on unstampt paper. The notice to the defendant, the summons for witnesses, and other processes on the part of the plaintiff, shall be served through the *chuprassees* on the establishment of the courts without any expense to the plaintiff; and the copy of the decree, as well as copies of orders or proceedings which he may be required to take, shall be furnished to a pauper plaintiff on unstampt paper.

Stamp duties and other expenses to be remitted to paupers.

Pleadings on their part, and copy of the decree, to be on unstampt paper.

IX. On the conclusion of the suit, the court shall calculate the whole of the costs which would have been incurred by the plaintiff on account of the several stamp duties prescribed by Regulation I. 1814, and other legal expenses, had he not been permitted to sue as a pauper, and shall charge the same in the decree to the party cast, or to the parties respectively, in such proportions as may be deemed equitable.

All costs and expenses to which the plaintiff would have been liable had he not been admitted to sue as a pauper, to be inserted in the decree.

X. *First.* If the pauper plaintiff shall gain his suit, the court will cause the defendant to make good the amount of the fees due to the pleader who may have been employed on account of the plaintiff, or such part of them as the court may decree.

The fees of the pauper's pleader when to be paid by the defendant.

Second. If the claim of the plaintiff be dismissed with costs, the court is authorized and required to levy from the defendant such part only of the established fee for his own pleader as may appear to be an adequate compensation, leaving the remainder to be recovered from any property that may subsequently be found to belong to the plaintiff.

If the claim be dismissed, the defendant is to pay to his own pleader such adequate compensation as the court may direct.

XI. *First.* If the plaintiff shall not establish his claim, and the court shall deem the suit to be unfounded, vexatious, or wilfully exaggerated, and the plaintiff shall not pay the amount of his own fees, and the fees and costs which may be awarded against him in favour of the opposite party, the court is authorized to commit him to close custody in the civil jail without labour, for a period not exceeding six months.

Pauper plaintiffs under certain circumstances liable to a sentence of six months imprisonment.

Second. Such order of confinement shall be carried into immediate execution, and shall not be suspended in consequence of the plaintiff's being desirous of appealing from the judgment; provided however, that the plaintiff shall at any time be entitled to his discharge from such confinement on his paying in court the full amount of the costs and expenses awarded against him in the decree.

Execution of such sentence not to be suspended on account of an appeal being preferred from the decision.

Proviso.

Third. If the pauper plaintiff shall abscond, and his sureties shall not produce him before the court, and the order for his imprisonment cannot therefore be carried into effect, the said sureties shall be called upon to make good the full amount of the costs adjudged against the plaintiff. In the event of their refusing or failing to make good the costs, the court is authorized to commit them to close custody, without labour, in the civil jail for a period not exceeding six months, subject to the provision contained in clause second of this section.

Sureties failing to produce a pauper plaintiff liable to six months' imprisonment.

Fourth. The confinement of a pauper plaintiff, or of his sureties, under this section, shall not preclude the court from realizing the costs and expenses adjudged against a pauper plaintiff; but in all cases in which such plaintiff may fail to make good the costs and expenses to which he may be declared liable in the decree, whether those costs may be due to the defendant or to Government, the court shall endeavour to realize the amount by the sale of any property which may belong to the plaintiff, either at the time of the decree or subsequently thereto.

Court to realize the costs due from paupers, notwithstanding their imprisonment or the imprisonment of their sureties.

XII. *First.* If any party to an original suit may be desirous of appealing *in formâ pauperis* from the decision passed in such suit, he shall present a petition in the mode prescribed by clause first, Section 5, of this regulation, to the court by which his appeal may be regularly cognizable under the regulations.

Persons desirous of appealing as paupers, to present a petition to the superior court.

Second. Such petition shall be accompanied by an authenticated copy of the decree, and shall contain a schedule of the whole real or personal property belonging to the petitioner,

With copy of the decree.

What the petition is to contain.

and the estimated value of such property, together with a statement of the specific grounds on which the petitioner may desire to prefer an appeal.

Court when to reject the petition.

Third. If upon a perusal of the petition and the copy of the decree, the original judgment shall not appear to the court to be erroneous or unjust, or if the nature of the cause shall not appear to be of sufficient importance to merit a further investigation in appeal, the court will reject the petition, and will refuse to admit the petitioner to sue in appeal as a pauper.

Proviso.

Fourth. Provided, however, that the petitioner shall nevertheless be entitled to institute his appeal, on performing the conditions of appeal prescribed by the regulations for persons not suing as paupers.

In what cases the court may admit the petitioner to appeal as a pauper.

XIII. If upon the perusal of a petition presented under the preceding section, and of the copy of the decree accompanying it, the court shall be of opinion that there is reason to believe the judgment to be erroneous or unjust, or that the nature of the cause renders it deserving of a further investigation in appeal, the court is empowered to admit the appeal, subject to the rules and conditions prescribed in Sections 5 and 6. of this Regulation. Sections 7, 8. 9, 10, and 11, shall also be considered applicable to persons who may be admitted to appeal *in formâ pauperis*.

Subject to what rules.

Pauper plaintiffs who may have gained their suit, to be admitted to respond in appeals as paupers

Proviso.

XIV. If a decision be passed in any original suit in favour of a pauper plaintiff, and the adverse party shall appeal from such decision, the principles of the rules contained in Sections 7, 8, 9, and 10, shall without any further inquiry be considered applicable to the respondent or original pauper plaintiff in such appealed suit, provided that the execution of the original decree shall have been suspended during the appeal.

Amount of the stamp duty paid on appeal to be returned to the appellant in certain cases;

and recovered with other costs from the respondent's property.

XV. If a decision in favour of a pauper plaintiff be reversed in appeal, the amount of the stamp duty substituted for the institution fee which may have been paid by the appellant, shall be returned to him by the court, together with such portion of the deposit which may have been made him on account of the fee payable to his *vakeel*, as may be deemed reasonable; and the amount of such stamp duty and deposits, as well as all other costs and expenses which may be awarded in the decree against the respondent, shall be recovered from any property which the respondent may at any time be found to possess.

Defendants or respondents wishing to plead as paupers, to present a petition to the court.

XVI. *First.* If a defendant or respondent, in any suit, (except in the case provided for by Section 14,) shall be desirous of being admitted to plead *in formâ pauperis*, he shall appear either in person, or by an authorized agent, before the court in which the suit may be depending, in conformity with the rules prescribed in clause first, of Section 5, of this Regulation; and shall present a petition, containing an exact schedule of the whole real or personal property belonging to him, and the estimated value of such property.

Court how to proceed.

Second. The court to whom such petition may be presented, shall then proceed in conformity with clauses third, fourth, fifth, sixth, and seventh, of Section 5, of this regulation.

And in what cases authorized to comply with the prayer of the petition.

Third. If after the examination and inquiries prescribed in those clauses, the court shall be satisfied that the petitioner is not possessed of sufficient property to defray the probable expenses of the suit, and that he can neither plead the suit in person, nor prevail on any of the authorized pleaders of the court to undertake the defence of the suit, the court is empowered to grant to the petitioner the same advantages and facilities in the defence of the suit as are allowed to pauper plaintiffs and appellants under Sections 7, 8, 9, and 10, of this regulation, and no security except for personal appearance shall be required from such defendant or respondent.

This regulation is not applicable to summary suits, or to suits of paupers instituted before the 1st of February 1815.

XVII. It is hereby declared, that the rules contained in this regulation are intended to apply to regular suits and appeals only, and not to summary suits or summary appeals of any description; neither are they intended to apply to pauper suits which may have been instituted either originally or in appeal previously to the 1st of February 1815; such pauper suits and appeals are to be tried and determined in conformity with the rules heretofore in force.

Copies of the proceedings and judgments of the Sudder Dewanny Adawlut may in certain cases be written on unstampt paper.

XVIII. Copies of the proceedings and judgments of the Sudder Dewanny Adawlut, in appeal to the King in Council, which are required to be written on stampt paper, of a prescribed value, by Section 19, Regulation I. 1814, shall be furnished without expense to

 paupers,

paupers, who may be parties in such appeals, and shall be written on unstampt paper of European manufacture.

Explanation, that miscellaneous petitions and applications are to be written on the prescribed stampt paper.

XIX. Doubts having arisen whether the courts of civil and criminal judicature, the Board of Revenue, the Board of Commissioners, the collectors and other public officers, are authorized to receive from persons professing themselves to be paupers, any miscellaneous petitions or applications which are required to be written on stampt paper, on any other paper than the prescribed stampt paper; it is hereby declared, that such petitions or applications shall not be received by any of the said authorities, except on paper bearing the prescribed stamp. Provided, however, that the courts of criminal judicature shall be at liberty to receive petitions on unstampt paper from prisoners, who may be confined under examination or sentence in any of the criminal jails.

Proviso.

A. D. 1828. REGULATION IX.

A REGULATION *for amending the Rules in Force in regard to special or second Appeals, instituted in Formâ Pauperis.*—PASSED *by the Governor General in Council, on the 27th November* 1828; *corresponding with the* 13*th Aughun* 1235 *Bengal era; the* 6*th Aughun* 1236 *Fussily; the* 14*th Aughun* 1236 *Willaity; the* 6*th Aughun* 1885 *Sumbut; and the* 18*th Jumadee-ul-Awal* 1244 *Higeree.*

Preamble.

WHEREAS there is reason to believe, that the rule contained in Section 5, Regulation II. 1825, in consequence of its not having a retrospective effect, has operated to prevent, in some instances, the admission of special appeals from persons suing *in formâ pauperis*, the Governor General in Council has enacted the following rules, to be in force, from the date of their promulgation, throughout the provinces immediately subject to this presidency.

The rule contained in Section 5, Regulation II. 1825, declared applicable to second or special appeals, which may have been instituted *in formâ pauperis*, but rejected, between the date of the promulgation of Regulation XXVIII. 1814, and of Regulation II. 1825.

II. The rule contained in Section 5, Regulation II. 1825, is hereby declared applicable to any second or special appeals, which may have been instituted *in formâ pauperis*, but which may have been rejected, between the date of the promulgation of Regulation XXVIII. 1814, and of Regulation II. 1825, on the sole ground that paupers were not entitled, under Regulation XXVIII. 1814, to institute a second or special appeal *in formâ pauperis*.

The several courts of justice empowered to inquire into, and decide such second or special appeals if preferred within one year from the date of the present regulation,

III. The several courts of justice are hereby empowered and required, on application being made by the parties interested, provided such application be made within one year from the date of the promulgation of this regulation, to inquire into, and decide any second or special appeals of the above description, which may have been rejected exclusively on the ground stated in the foregoing section; any thing in the existing regulations to the contrary notwithstanding.

A. D. 1793. REGULATION XVI.

A REGULATION *for referring Suits to Arbitration, and submitting certain Cases to the Decision of the Nazim.*—PASSED *by the Governor General in Council, on the 1st May* 1793; *corresponding with the 21st Bysaak* 1200 *Bengal era; the 6th Bysaak* 1200 *Fussily; the 21st Bysaak* 1200 *Willaity; the 6th Bysaak* 1850 *Sumbut; and the 19th Ramzaan* 1207 *Higeree.*

Preamble.

THE regulations for the administration of justice passed on the 27th June 1787, empowered the courts to refer certain suits to the decision of one person, without the consent of either of the parties. This rule deprived the parties in such suits of the benefit of having their claims tried by the regular tribunals, and was further inexpedient, as it vested in the judges a discretionary power of committing the administration of the laws to any persons (with certain exceptions) whom they thought proper. In cases in which suits were referred to arbitration with the consent of the parties, no provisions were made in those regulations for determining differences of opinion that might arise between the arbitrators, or for completing the award in the event of their not delivering it by the limited period. The awards in suits referred to arbitration, were consequently often protracted from disagreements between the arbitrators, or other causes, and the suits were frequently brought again before the courts for decision. These defects in the regulations were productive of much inconvenience and expence to the parties, and the good effects intended to be produced by referring disputes to arbitration, were always liable to be counteracted. The Governor General in Council being desirous to promote the reference of disputes of certain descriptions to arbitration, and to encourage people of credit and character to act as arbitrators; and having deemed it proper to submit certain cases to the decision of the *nazim*, the following rules have been enacted.

What suits exceeding two hundred rupees the courts are to recommend to the parties to refer to arbitration.

II. In suits that may be brought before any of the courts of civil judicature concerning disputed accounts, partnerships, debts, doubtful or contested bargains, or non-performance of contracts, in which the cause of action shall exceed two hundred sicca rupees, the courts are to recommend the parties to submit the decision of the matters in dispute to arbitration.

Cases in which the courts are empowered to nominate one person to arbitrate with the consent of the parties.

III. In all suits for money or personal property, the amount or value of which shall not exceed the sum of two hundred sicca rupees, the courts are empowered, with the consent of the parties, to refer the suit to the decision of one arbitrator. The parties or their *vakeels*, upon agreeing to the reference, shall on or before the next court day, mutually choose some one common friend or indifferent person who may be willing to undertake the arbitration. If the parties shall not agree with respect to the person to be appointed arbitrator, or, if the person nominated by them shall refuse to accept the arbitration, and the parties or their *vakeels* cannot agree in the appointment of another person willing to undertake the arbitration, the court, with the consent of the parties, is to appoint as arbitrator in the cause, the proprietor of the estate in which the cause of action shall have arisen, or the farmer, if the estate be held in farm of Government, or the *cauzy* of the *pergunnah*, or the *tehsildar*, or any other creditable person, provided that the person so to be nominated by the court, be not in any respect interested in the matter in dispute. But if the parties cannot agree in the nomination of an arbitrator, or, if the person whom they may nominate shall refuse to accept the trust, and the

parties cannot agree upon the appointment of any other person willing to undertake the arbitration, or shall not consent to the appointment of an arbitrator by the court, the cause is not to be referred to arbitration, but is to be tried by the court, or the register, if the cause be depending in a *zillah* or a city court, and the judge shall think it proper to refer it to him for decision. In the event of the parties, or their *vakeels*, agreeing in the nomination of an arbitrator willing to accept the arbitration, or to an arbitrator being appointed by the court, the person so chosen or appointed shall be the arbitrator in the cause. The parties, however, in suits of the nature of those described in this section, are to have the option of choosing two or more arbitrators to decide their cause, in the same manner as the parties in the causes specified in Section 2.

Parties in suits described in this section, to have the option of referring their causes to the decision of two or more arbitrators.

Courts to encourage, but not oblige persons to become arbitrators.

What persons are disqualified from becoming arbitrators.

Courts to recommend parties to submit to the arbitration of one person.

Parties to choose the arbitrators. Exception.

Arbitrators to decide without fee or reward.

IV. The judges of the courts are enjoined to afford every encouragement in their power to persons of character and credit to become arbitrators; but they are not to employ any coercive means for that purpose, nor to permit any of their public officers, or private servants, or any of the authorized *vakeels*, to be arbitrators in a cause. In all cases, the courts are directed to endeavour, but without using any compulsion, to prevail upon parties to submit their cause to the arbitration of one person to be mutually agreed upon by them. In every case, (with the exception of the cases specified in Section 3, which the courts are empowered to refer to one arbitrator with the consent of the parties,) the parties are to choose the arbitrators, who are to decide the matter in dispute without fee or reward.

Court how to proceed, upon the parties agreeing to refer a cause to arbitration.

Provisions to be made against the arbitrators not delivering in their award by the limited time from disagreement, or other cause.

V. Whenever a suit shall be submitted to arbitration, the court in which it may have been instituted, previous to the arbitrator or arbitrators entering upon the arbitration, is to cause the parties to execute arbitration bonds, binding themselves to abide by the award, and agreeing that it be made a decree of the court. The court is to fix such time as it may think reasonable, upon a consideration of the nature and circumstances of the case, for the delivery of the award, and the period so fixed is to be specified in the bonds. If the cause shall be referred to two or more arbitrators, the following provisions are to be made for completing the award, in the event of the arbitrators not delivering it by the limited time, either from disagreement or other cause. If the decision of the suits shall be referred to two or more arbitrators, whether an odd or an even number, the parties are to have the option of nominating jointly one person as umpire, or, if the number of arbitrators appointed shall be three or more, being an odd number, to agree that the award given by the majority shall be final, or, to permit the arbitrators to nominate an umpire. The name of the umpire, and the time by which he is to make his award, in the event of the arbitrators nor delivering it by the limited period, is to be specified in the bonds, which are to be executed before the arbitrators enter upon the enquiry. In the event of an umpire being appointed, and the arbitrators not agreeing in an award by the limited period, their authority is to cease from such period, and the umpire is to give his award.

Courts how to proceed when the arbitration bonds have been executed.

VI. When a cause shall be referred to arbitration, and the bonds specified in the preceding section shall have been executed, the court is to transmit to the arbitrator or arbitrators a copy of the bill of complaint, and by a short writing under the seal of the court, refer to him or them the matters in dispute between the parties. In the trial of the suit, the arbitrators are to investigate the matters in dispute, by hearing the pleadings of the parties, and examining their respective witnesses and documents. The court is to issue the same process to the parties, and to the witnesses, whom the arbitrator or arbitrators, or the parties, may desire to have examined, to appear before the arbitrator or arbitrators, and to administer such oaths to the parties and witnesses as the court is authorized to administer, in causes tried before it; and persons not attending in consequence of such process, or making any default, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the arbitrator or arbitrators during the investigation of the suit, are to be subject to the like disadvantages, penalties, and punishments, by order made by the arbitrator or arbitrators, as they would incur for the same offences in suits tried before the court, provided that the arbitrator or arbitrators shall report the order, with the reason for making it, to the court, and obtain its consent thereto, which is to be signified by the judge or judges signing the order. In cases in which an arbitration may be held at a considerable distance from the court, the court may grant commissions to the arbitrators to administer the proper oaths to witnesses whom they may be desirous of examining upon oath.

VII. In cases where arbitrators, or umpires, shall not have been able to complete the award by the limited time, from want of the necessary evidence or information, or other good and sufficient cause, the courts are empowered to allow a further time for the delivery of the award. In the first mentioned case, the courts are to fix a period by which the umpire (if an umpire shall have been appointed) for the delivery of his final award, in the event of the arbitrators not completing their award by the expiration of such further time.

Cases in which the courts may extend the period for the delivery of an award.

VIII. When a final award in a cause shall be made either by the arbitrators, or the umpire, it is to be submitted to the court under the seal and signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause. The court is to pass a decree conformably to the award, and the decree is to be carried into execution in the same manner as other decrees of the court.

Arbitrators to deliver all documents and papers into the courts.

Award to become a decree of the court.

IX. The award of an arbitrator or arbitrators is not to be set aside, except it be fully proved to the satisfaction of the court by the oaths of two credible witnesses, that the arbitrator or arbitrators has or have been guilty of gross corruption or partiality in the cause in which the award may be made.

Awards not to be set aside but upon proof of corruption or partiality against the arbitrators.

X. In complaints brought before any *sillah* or city court, in which it shall appear either by the application of the *naxim*, or the representation of the defendant, at or before the time of giving in his or her answer, or by the petition of the complainant, that both parties are servants or relations of his excellency, or the widows or female descendants of the former *naxims* of Bengal, the parties are to be referred for justice to the *naxim*, or to any person whom he may appoint to dispense it. Upon a complaint being preferred against any servant or servants of his excellency by persons of a different description, the court in which the complaint may be instituted, is either to refer it to his excellency, or to hear it in the ordinary manner, according to its discretion, taking care at all times, and in all matters, to pay every proper attention to the dignity and long established rights of the *nabob*. Provided, however, that in all cases in which either the plaintiff or defendant shall prefer the jurisdiction of the court to that of the *naxim*, the judge is to try and determine the suit, in the same manner as if neither of the parties had been persons of the description specified in this section.

Cases to be referred to the *naxim*.

A. D. 1795. REGULATION XV.

A REGULATION *for extending to the Province of Benares, Regulation XVI.* 1793, *entitled, "A Regulation for referring Suits to Arbitration, and submitting certain Cases to the Decision of the Nazim," with the Exception of Section* 10; *and for referring certain Cases to the Decision of the Raja of Benares.*—PASSED *by the Governor General in Council, on the* 27*th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 21*st Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 21*st Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

PREVIOUS to the establishment of courts of justice in the province of Benares, individuals, in general, were under the necessity of having recourse to arbitration for the adjustment of the differences occasionally arising between them in respect to matters of property; and the same mode of adjustment has since been prevalent in the province, the parties in suits before the courts, often agreeing to submit to the award of a certain number of their neighbours, or other persons, and the award, when confirmed by the court, becoming a decree of the court. The Governor General in Council, being desirous to promote the reference of disputes of certain descriptions to arbitration, and having deemed it proper to submit certain cases to the decision of the raja, the following rules have been enacted.

Regulation XVI. 1793, with the exception of Section 10, extended to Benares.

II. Regulation XVI. 1793, with the exception of Section 10, is hereby extended to the province of Benares.

Cases to be referred to the raja.

III. *First.* In the event of any complaints being preferred to the city court, or to any *zillah* court, or to the provincial court of appeal, relative to undue exactions of revenue, or any breach of agreement in respect to *pottahs*, or the resumption of *kishnarpun*, or other description of lands exempted from the payment of revenue, in the *jaghire mohauls* of Budhoee, or of Kera Mungrore, or in the raja's hereditary *zemindaree* of Gungapore; the complaints are not to be taken cognizance of in the courts of justice, but the parties are to be desired to make application to the raja, or to his *dewan*; and in case of their not obtaining justice, they are to have recourse to the collector, who will proceed to bring such causes to a just and equitable termination, in the manner stated in the under-specified article of an agreement, concluded by the resident with raja Mahipnarain, under date the 27th of October 1794. An option, however, is reserved to the persons deeming themselves injured, to prefer their applications for redress in the first instance to the collector, who in all cases, by reference to and communication with the raja, and his officers, is to cause substantial justice to be rendered to the parties.

Article of agreement.

Second. " Article Third, of an agreement concluded by the resident at Benares with raja Mahipnarain, under date the 27th October 1794. ' In case of complaints relative to revenue causes, or charity ground, &c. being preferred to the *huzoor*, (i. e. the English Government,) by any parties residing within the *jaghire* and *altumgah*, &c. the personal or private lands of raja Mahipnarain Sing, the enquiry thereinto shall be made, in like manner as such cases were amicably conducted between Mr. Duncan and the raja; that is, that since the gentleman holding the station of collector, will have more concern and connection with such matters, than the other gentlemen, the rule shall be, that with the privity and ascertain-

ment of the said collector, (who is to have regard to the honour and dignity of the said raja,) such causes are to be settled through the channel of the said raja, or of the officers of the said raja's *cutcherree*; it being at the same time understood, and provided, that as it is a duty incumbent on the Honourable Company's Government, to distribute and ensure the attainment of justice, to all the inhabitants of Benares, should it so happen, that after referring such complaints to the raja, or to his officers in the *cutcherree*, the contentment of the parties complaining and aggrieved shall not be obtained, the raja shall, relative to the adjustment of such causes, listen to, and approve of, the suggestions and advice of the collector, in like manner as hath been practised in the time of Mr. Duncan; and it is also incumbent on the said collector, in all proper and just cases, to show the utmost attention possible to the raja's accommodation, and to hold in view the maintenance of his honour and dignity, such being entirely consistent with the wishes of Government; and if, (which God forbid,) any such subject should arise, as cannot be settled between the said collector, and the raja aforesaid, the decision in such case shall depend on the Governor General in Council.'"

A. D. 1803. REGULATION XXI.

A REGULATION *for referring Suits to Arbitration, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the* 24*th of March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

THE Governor General in Council being desirous to promote the reference of disputes, of certain descriptions, to arbitration, and to encourage people of credit and character to act as arbitrators; the following rules have been enacted.

What suit exceeding two hundred rupees, the courts are to recommend to the parties to refer to arbitration.

II. In suits that may be brought before any of the courts of civil judicature concerning disputed accounts, partnerships, debts, doubtful or contested bargains or non-performance of contracts, in which the cause of action shall exceed two hundred sicca rupees, the courts are to recommend the parties to submit the decision of the matters in dispute to arbitration.

Cases in which the courts are empowered to nominate one person to arbitrate with the consent of the parties.

III. In all suits for money or personal property, the amount or value of which shall not exceed the sum of two hundred sicca rupees, the courts are empowered, with the consent of the parties, to refer the suit to the decision of one arbitrator. The parties, or their *vakeels*, upon agreeing to the reference, shall on or before the next court day, mutually choose some one common friend or indifferent person, who may be willing to undertake the arbitration. If the parties shall not agree with respect to the person to be appointed arbitrator, or, if the person nominated by them shall refuse to accept the arbitration, and the parties or their *vakeels* cannot agree in the appointment of another person willing to undertake the arbitration, the court, with the consent of the parties, is to appoint as arbitrator in the cause, the proprietor of the estate in which the cause of action shall have arisen, or the farmer, if the estate be held in farm of Government, or the *cauzy* of the *perguunah*, or the *tehsildar*, or any other creditable person: provided that the person so to be nominated by the court, be not in any respect interested in the matter in dispute. But if the parties cannot agree in the nomination of an arbitrator, or if the person whom they may nominate shall refuse to accept the trust, and the parties cannot agree upon the appointment of any other person willing to undertake the arbitration, or shall not consent to the appointment of an arbitrator by the court, the cause is not to be referred to arbitration; but is to be tried by the court, or the register, if the cause be depending in the *zillah* court, and the judge shall think it proper to refer it to him for decision. In the event of the parties, or their *vakeels*, agreeing in the nomination of an arbitrator, willing to accept the arbitration, or to an arbitrator being appointed by the court, the person so chosen or appointed, shall be the arbitrator in the cause.

Parties to have the option of referring their causes to the decision of two or more arbitrators.

The parties however in suits of the nature of those described in this section are to have the option of choosing two or more arbitrators to decide their cause, in the same manner as the parties in the causes specified in Section 2.

Courts to encourage, but not oblige persons to become arbitrators.

IV. The judges of the courts, are enjoined to afford every encouragement, in their power, to persons of character and credit to become arbitrators; but they are not to employ any coercive means for that purpose, nor to permit any of their public officers, or private servants, or any of the authorized *vakeels*, to be arbitrators in a cause. In all cases, the courts are directed to endeavour, but without using any compulsion, to prevail upon parties to submit their cause to the arbitration of one person, to be mutually agreed upon by them. In every

case (with the exception of the cases specified in Section 3, which the courts are empowered to refer to one arbitrator with the consent of the parties) the parties are to choose the arbitrators, who are to decide the matter in dispute without fee or reward.

Court how to proceed upon the parties agreeing to refer a cause to arbitration.

V. Whenever a suit shall be submitted to arbitration, the court in which it may have been instituted, previous to the arbitrator or arbitrators entering on the arbitration, is to cause the parties to execute arbitration bonds, binding themselves to abide by the award, and agreeing that it be made a decree of the court. The court is to fix such time as it may think reasonable, upon a consideration of the nature and circumstances of the case, for the delivery of the award, and the period so affixed is to be specified in the bonds. If the cause shall be referred to two or more arbitrators, the following provisions are to be made for completing the award, in the event of the arbitrators not delivering it by the limited time, either from disagreement or other cause. If the decision of the suit shall be referred to two or more arbitrators, whether an odd or an even number, the parties are to have the option of nominating jointly one person as umpire; or, if the number of arbitrators appointed shall be three or more, being an odd number, to agree that the award given by the majority shall be final; or, to permit the arbitrators to nominate an umpire. The name of the umpire, and the time by which he is to make his award, in the event of the arbitrators not delivering it by the limited period, is to be specified in the bonds, which are to be executed before the arbitrators enter upon the inquiry. In the event of an umpire being appointed, and the arbitrators not agreeing in an award by the limited period, their authority is to cease from such period, and the umpire is to give his award.

Provisions to be made against the arbitrators not delivering in their award by the limited time.

Courts how to proceed when the arbitration bonds have been executed.

VI. When a cause shall be referred to arbitration, and the bonds, specified in the preceding section, shall have been executed, the court is to transmit to the arbitrator, or arbitrators, a copy of the bill of complaint, and by a short writing under the seal of the court, refer to him or them the matters in dispute between the parties. In the trial of the suit, the arbitrators are to investigate the matters in dispute, by hearing the pleadings of the parties, and examining their respective witnesses and documents. The court is to issue the same process to the parties, and to the witnesses whom the arbitrator, or arbitrators, or the parties, may desire to have examined, to appear before the arbitrator or arbitrators, and to administer such oaths to the parties and witnesses, as the court is authorized to administer, in causes tried before it; and persons not attending in consequence of such process, or making any default, or refusing to give their testimony, or to sign their depositions, or being guilty of any contempt to the arbitrator or arbitrators during the investigation of the suit, are to be subject to the like disadvantages, penalties, and punishments, by order, made by the arbitrator or arbitrators, as they would incur, for the same offences in suits tried before the court, provided that the arbitrator or arbitrators shall report the order with the reason for making it to the court, and obtain its consent thereto; which is to be signified by the judge or judges signing the order. In cases in which an arbitration may be held at a considerable distance from the court, the court may grant commissions to the arbitrators to administer the proper oaths to witnesses, whom they may be desirous of examining upon oath.

Cases in which the courts may extend the period for the delivery of an award.

VII. In cases where arbitrators, or umpires, shall not have been able to complete the award by the limited time; from want of the necessary evidence or information or other good and sufficient cause, the courts are empowered to allow a further time for the delivery of the award. In the firstmentioned case, the courts are to fix a period, by which the umpire (if an umpire shall have been appointed) shall deliver his final award in the event of the arbitrators not completing their awards; by the expiration of such further time.

Arbitrators to deliver all documents and papers into the courts.

Award to become a decree of the court.

VIII. When a final award in a case shall be made, either by the arbitrators, or the umpire, it is to be submitted to the court, under the seal and signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the cause. The court is to pass a decree conformably to the award; and the decree is to be carried into execution, in the same manner as other decrees of the court.

Awards not to be set aside but upon proof of corruption or partiality.

IX. The award of an arbitrator or arbitrators is not to be set aside; except it be fully proved to the satisfaction of the court, by the oaths of two credible witnesses, that the arbitrator or arbitrators has, or have been guilty of gross corruption or partiality in the cause, in which the award may be made.

A. D. 1793. REGULATION XLIX.

A REGULATION *for preventing Affrays respecting disputed Boundaries.*—PASSED *by the Governor General in Council, on the 28th June* 1793; *corresponding with the* 17*th Assar* 1200 *Bengal era; the* 4*th Assar* 1200 *Fussily; the* 17*th Assar* 1200 *Willaity; the* 4*th Assar* 1850 *Sumbut; and the* 17*th Zekaad* 1207 *Higeree.*

Preamble.

INSTANCES frequently occurring of proprietors and farmers of land, dependant *talookdars*, under-farmers, and *ryots*, seizing or ordering their agents and dependants to take possession by force, of disputed land or crops, under the pretext of their having a claim thereto; and frays often ensuing in consequence, which are generally attended with bloodshed, and not unfrequently with the loss of many lives on both sides; and the having recourse to these violent means, either for enforcing or resisting such claims, being not only highly criminal, but unnecessary, from the parties having it at all times in their power to obtain redress by application to the courts of judicature; the following rules have been enacted.

Persons having claims to disputed lands or crops not to take possession of them by force, but to sue for them in the courts of judicature.

II. If a proprietor, or a farmer of land, or a dependant *talookdar*, or an under-farmer, or a *ryot*, or other person, shall have a claim to any disputed land, or crops, in the possession of another, the claimant is prohibited from possessing or attempting to possess himself of the land or crops by force, but is to prefer his claim to the *dewanny adawlut* of the *zillah*.

Persons forcibly dispossessed of land or crops to complain to the judge of the *zillah*.

Judge to hear the complaint immediately, and upon proof of the dispossession to his satisfaction, to cause the land or crops to be restored to the complainant, or the value of the latter to be paid to him, without enquiring into the merits of the claim of the dispossessor.

III. If any such claimant shall forcibly take possession of the disputed land, or crops, the party dispossessed shall be at liberty to represent the circumstances to the judge of the *dewanny adawlut*, who is immediately to take cognizance of the complaint, and, upon the previous possession of the complainant being proved to his satisfaction, shall, without enquiring into the merits of the claim of the dispossessor, cause the disputed land or crops to be restored to the complainant, or the value of the crops to be paid to him, if they shall have been damaged, destroyed, or shall not be forthcoming, and award against the offender such costs and damages as may appear to him equitable, leaving him to prefer his claim to the property in dispute to the *dewanny adawlut*.

Right of the claimant to the disputed property to be forfeited, if any person shall be killed, wounded, or violently beaten.

Offender and all persons concerned with him liable to be committed to take their trial before the court of circuit.

IV. If any such claimant, or any persons accompanying him, in taking, or attempting to take, possession of the disputed land or crops by force, shall kill, or wound, or violently beat any person; the judge, upon the complainant proving previous possession to his satisfaction, shall not only proceed against the offender, as directed in the case specified in Section 3, but his right to the disputed land or crops, shall be adjudged forfeited to the complainant; and, whether the dispossession be proved to the satisfaction of the judge or not, the offender and all persons aiding or assisting him in the act, shall be committed or held to bail (according to the circumstances of the case) to take their trial before the court of circuit.

Claimants not present, but indirectly concerned in the acts above prohibited, liable to the same consequences as if they were present.

V. If the agents, servants, or dependants, or any person in the employ of a claimant to the disputed land or crops shall take or attempt to take possession thereof by force, and the actual claimant shall not be present, the judge shall nevertheless restore the disputed land or crops, or the value of the latter, to the person who had possession, if he shall have been dispossessed, and proceed against the parties actually present in the manner directed in Section 4, in the event of their having killed, wounded, or violently beaten any person; and if it shall be proved that the parties immediately concerned in taking or attempting to

take possession of the disputed property acted by the orders, or with the knowledge or connivance of the actual claimant, he shall forfeit his right to the disputed property to the person dispossessed, and be liable to be proceeded against in the criminal court, in the same manner as if he had been present.

Proprietors and others prohibited resisting by force of arms persons attempting to dispossess them of disputed land or crops, or employing force to dispossess such persons, in the event of their having taken possession.

VI. This regulation affording ready means of redress to all persons who may be forcibly dispossessed of land or crops, proprietors and farmers of land, dependant *talookdars*, underfarmers, and *ryots*, and all other persons, are prohibited from arming themselves, or entertaining armed *yukes*, or other persons, for the purpose of keeping possession of, or guarding any disputed land or crops; and if any claimant to disputed land or crops shall go armed with a sword, stick, or other weapon, or give orders for, or connive at, any persons going so armed, to take possession of such land or crops, and the party in possession of the land or crops, or any persons having a claim thereto, shall go armed, or give orders for, or connive at, the assembling of any armed men, to prevent such claimant, or armed persons on his part taking possession of the land or crops, or to dispossess them by force, should they have taken possession of the property, and a fray shall ensue, and any person be killed, wounded, or violently beaten, on either side, the land and crops in dispute shall be adjudged forfeited to Government, and be disposed of as the Governor General in Council may think proper, and both of the claimants to the property, and all persons present, and assisting, or concerned in the fray, shall be committed to prison or held to bail (according to the circumstances of the case) to take their trial before the criminal court.

A. D. 1795. REGULATION XIV.

A REGULATION *for extending to the Province of Benares, Regulation XLIX. 1793, entitled, "A Regulation for preventing Affrays respecting disputed Boundaries," and for applying the Rules in that Regulation, to Disputes regarding Tanks, or Reservoirs, Wells, and Watercourses, in the Province of Benares.*—PASSED *by the Governor General in Council, on the* 27*th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

ON grounds similar to those stated in the preamble to Regulation XLIX. 1793, for preventing affrays respecting disputed boundaries, in the provinces of Bengal, Behar, and Orissa, and for obviating similar contests in the province of Benares, respecting tanks, or reservoirs, wells, or watercourses, the following rules have been enacted.

Regulation XLIX. 1793, extended to Benares. Rules in that regulation, extended to the further cases herein specified.

II. The rules contained in Regulation XLIX. 1793, are hereby extended to the province of Benares, and also to all disputes in that province, between *zemindars*, *talookdars*, *putteedars*, whether distinct or common, or other proprietors of land, or under-farmers, or *ryots*, or other persons, in the jurisdiction of the city court, or either of the *zillah* courts, regarding tanks, or reservoirs, wells, or watercourses.

A. D. 1803. REGULATION XXXII.

A REGULATION *for preventing Affrays respecting disputed Boundaries, Crops, Wells, and Water, and Water-courses, or other works constructed for the improvement of the cultivation of Lands, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company.*—PASSED *by the Governor General in Council, on the* 24*th March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekuad* 1217 *Higeree.*

Preamble.

INSTANCES frequently occurring of proprietors and farmers of land, dependant *talookdars*, under-farmers, and *ryots* seizing or ordering their agents and dependants to take possession by force, of disputed land or crops, under the pretext of their having a claim thereto; and frays often ensuing in consequence, which are generally attended with bloodshed, and not unfrequently with the loss of many lives on both sides; and the having recourse to these violent means either for enforcing or resisting such claims, being not only highly criminal, but unnecessary, from the parties having it at all times in their power to obtain redress by application to the courts of judicature; the following rules have been enacted.

Persons having claims to disputed lands or crops not to take possession of them by force, but to sue for them in the courts of judicature.

II. If a proprietor, or a farmer of land, or a dependant *talookdar*, or an under-farmer, or a *ryot*, or other person, shall have a claim to any disputed land, or crops, in the possession of another, the claimant is prohibited from possessing or attempting to possess himself of the land or crops by force, but is to prefer his claim to the court of *adawlut* of the *zillah*.

Persons forcibly dispossessed of land or crops to complain to the judge of the *zillah*.

Judge to hear the complaint immediately, and upon proof of the dispossession to his satisfaction, to cause the lands, or crops to be restored to the complainant, or the value of the latter to be paid to him, without inquiring into the merits of the claim of the dispossessor.

III. If any such claimant shall forcibly take possession of the disputed land, or crops, the party dispossessed shall be at liberty to represent the circumstances to the judge of the court of *adawlut*, who is immediately to take cognizance of the complaint, and upon the previous possession of the complainant being proved to his satisfaction, shall, without inquiring into the merits of the claim of the dispossessor, cause the disputed land or crops to be restored to the complainant; or the value of the crops to be paid to him, if they shall have been damaged, destroyed, or shall not be forthcoming; and award against the offender such costs and damages as may appear to him equitable, leaving him to prefer his claim to the property in dispute to the court of *adawlut*.

Right of the claimant to the disputed property to be forfeited, if any person shall be killed, wounded, or violently beaten.

Offender and all persons concerned with him liable to be committed to

IV. If any such claimant, or any persons accompanying him, in taking, or attempting to take, possession of the disputed land or crops by force, shall kill, or wound, or violently beat any person; the judge, upon the complainant proving previous possession to his satisfaction, shall not only proceed against the offender, as directed in the case specified in Section 3, but his right to the disputed land or crops, shall be adjudged forfeited to the complainant; and whether the dispossession be proved to the satisfaction of the judge or not, the offender and all persons aiding or assisting him in the act, shall be committed or held to bail (according to the circumstances of the case) to take their trial before the court of circuit.

take their trial before the court of circuit.

Claimants not present, but indirectly concerned in the acts above prohibited, liable to the same consequences as if they were present.

V. If the agents, servants, or dependants, or any persons in the employ of a claimant to the disputed land or crops shall take, or attempt to take, possession thereof by force, and the actual claimant shall not be present, the judge shall nevertheless restore the disputed land or crops, or the value of the latter, to the person who had possession, if he shall have been dispossessed; and proceed against the parties actually present in the manner directed in Section 4, in the event of their having killed, wounded, or violently beaten any person; and if it shall be proved that the parties immediately concerned in taking, or attempting to take, possession of the disputed property, acted by the orders, or with the knowledge or connivance of the actual claimant, he shall forfeit his right to the disputed property to the person dispossessed, and be liable to be proceeded against in the criminal court, in the same manner as if he had been present.

Proprietors and others prohibited resisting by force of arms, persons attempting to dispossess them of disputed land or crops, or employing force to dispossess such persons in the event of their having taken possession.

VI. This regulation affording ready means of redress to all persons who may be forcibly dispossessed of land or crops, proprietors and farmers of land, dependant *talookdars*, under-farmers, and *ryots*, and all other persons are prohibited from arming themselves or entertaining armed *pikes*, or other persons, for the purpose of keeping possession of, or guarding any disputed land or crops; and if any claimant to disputed land or crops, shall go armed with a sword, stick, or other weapon, or give orders for, or connive at, any persons going so armed, to take possession of such land or crops, and the party in possession of the land or crops, or any person having a claim thereto, shall go armed, or give orders for, or connive at the assembling of any armed men, to prevent such claimant, or armed persons on his part, taking possession of the land or crops, or to dispossess them by force, should they have taken possession of the property, and a fray shall ensue, and any person be killed, wounded, or violently beaten, on either side, the land and crops in dispute shall be adjudged forfeited to Government, and be disposed of as the Governor General in Council may think proper; and both of the claimants to the property, and all persons present, and assisting, or concerned in the fray, shall be committed to prison or held to bail (according to the circumstances of the case) to take their trial before the criminal court.

Instructions to police officers how to act, in cases of disputed lands, crops, &c.

VII. In cases of proprietors of land, dependent* talookdars, *under-farmers and* ryots, *seizing, or ordering their agents and dependents to take possession by force, of disputed lands or crops, or of disputed tanks, reservoirs, wells, or water-courses, under the pretence of having a claim thereto; all* tehsildars, darogahs, *or other principal local officers, having charge of the police, are required, on receiving intimation of a tumultuous meeting of the above nature, to repair immediately to the spot, and endeavour to prevail on the parties to disperse, and to have recourse to a court of judicature for redress; in the event of such endeavours proving fruitless, the police officers, who may be present, shall declare aloud, that if any claimant, or any persons accompanying him, taking or attempting to take possession, of the land or matter in dispute by force, shall kill, wound, or violently beat, any person; the claimant shall not only forfeit his right to the same, but that such offender, together with all persons aiding or assisting him in the act, shall be liable to take their trial before the criminal court of the district in which the offence shall have been committed. The police officers will, at the same time, strive to seize the offender or offenders; and in the event of their failing so to do, they will endeavour to ascertain their names and places of abode, and will immediately communicate all the circumstances to the* tehsildar *(supposing the* tehsildar *not to have been present), or to the magistrate, who will adopt the necessary measures for bringing the offender or offenders to condign punishment.*

* Rescinded by clause first, Section 2, Regulation XX. 1817.

A. D. 1813. REGULATION VI.

A REGULATION *for referring to Arbitration Suits and Contests respecting Land, and for amending the Rules before established regarding forcible Dispossession of Land.*—PASSED *by the Governor General in Council, on the* 10*th July* 1813; *corresponding with the* 28*th Assar* 1220 *Bengal era; the* 26*th Assar* 1220 *Fussily; the* 29*th Assar* 1220 *Willaity; the* 12*th Assar* 1870 *Sumbut; and the* 11*th Rujeeb* 1828 *Higeree.*

Preamble.

WHEREAS no provision has been made by the existing regulations for referring to arbitration, suits and contests respecting land, and it is expedient to provide for the same: and whereas the existing regulations respecting forcible dispossession from land have been found to require amendment, the following rules have been enacted, to be in force from their promulgation, throughout the territories immediately dependant on the presidency of Fort William.

Parties in suits respecting land are at liberty to refer their suits to arbitration.

II. *First.* Parties in suits depending in the civil courts of judicature respecting the property in land, or limited tenures therein, or rights dependant thereon, shall be at liberty to refer their suits to arbitration, and shall by all due means be encouraged by the courts to resort to that mode of adjusting their differences.

Rules contained in Regulation XVI. 1793, and Regulation XXI. 1803, to be considered applicable to suits referred to arbitration under the present regulation.

Second. The rules contained in Regulation XVI. 1793, and Regulation XXI. 1803, respecting the reference of suits to arbitration, the appointment of arbitrators and umpires, the investigation of suits referred to arbitration, the time and mode of making the award, and the setting aside or confirming the same, are declared applicable to suits referred to arbitration by the courts of judicature under this regulation.

Persons between whom disputes may exist respecting land are at liberty to refer the same to private arbitration.

III. *First.* Persons between whom disputes may exist respecting the property of land or limited tenures therein, or rights dependant thereon, whether the same be or be not depending in the courts of judicature, are at liberty without any application to the courts, to refer the same to private arbitration; and the awards made by the arbitrators and umpires appointed in such case by the parties, shall be supported and enforced by the courts, under the following rules and limitations.

How the award is to be carried into execution, and during what period.

Second. Whenever a dispute respecting the matters above enumerated shall have been referred to private arbitration, and an award shall have been duly made, if either party shall refuse to perform the award, it shall be competent to the other party within the period of six months from the date of the award, to apply summarily to the *dewanny adawlut*; and upon such application, if the court, after calling upon the opposite party for his answer, be satisfied that the award was duly made by arbitrators or umpires appointed by the free will and consent of the parties, and such award shall be liable to no impeachment, which would have warranted the setting it aside, if it had been made under the authority of the court, shall cause the same to be summarily executed as a decree of court, calling upon the arbitrators and umpires, if necessary, to attend and give their assistance in the execution of their said award: provided always, that if such application for the enforcement of a private award shall not be made within the period above prescribed, the court shall not admit any plea whatever for the delay; but shall reject such application, and refer the party preferring it to a regular suit.

Whenever private awards are tendered by the parties in regular suits, the courts how to proceed in those cases.

Third. Whenever private awards shall be tendered by the parties in regular suits, the courts, if such awards shall appear to have been performed, and the possession of the contested property to have been held under them, shall allow equal validity to the same, as if they had been made under the authority of the courts. But if the awards tendered shall not have been performed at all, or shall have been performed only in part, the courts shall not admit the same, unless they be established by clear and satisfactory proof, shall be distinct and intelligible so as to admit of easy execution, and the delay which may have occurred in the performance of them, shall also be duly accounted for.

No former decree of court on awards of arbitration respecting land shall be amended or reversed, after the promulgation of the present regulation.

Exception in what case.

IV. There being reason to believe that decrees have been passed by many of the civil courts of judicature, founded both upon awards made under the authority of the court, and also private awards respecting the property in land, and limited tenures therein, and rights dependent thereon, it is hereby declared, that after the promulgation of this regulation, no decree relating to the matters above enumerated, shall be amended or reversed upon the ground of the same being founded on an award of arbitration not authorized by the regulations, at the time the award was made, unless such award be in itself open to just cause of impeachment.

The civil courts how to proceed in the adjustment of cases of forcible dispossession of land, on their being certified from the *foujdaree* courts, that disputes exist concerning any lands, and that it is likely to terminate in a breach of the peace, if not adjusted.

V. *First.* An opinion prevalent of the disadvantages attendant on becoming the plaintiff in cases of alleged forcible dispossession from lands, or forcible disturbance of the possession thereof, often preventing cases of this nature from being brought under the cognizance of the civil courts, whereby the said disputes, instead of being adjusted, frequently continue until they terminate in breaches of the peace; to remedy this inconvenience, it is hereby provided, that when a *dewanny* court shall be certified from the *foujdaree* court, that disputes exist concerning any lands or premises likely to terminate in a breach of the peace if not adjusted, the *dewanny* court shall address *perwannahs* to the parties, calling on them to attend in person or by *vakeel*, and deliver a written statement of their possession, and adduce proof of their having been forcibly dispossessed or disturbed in their possession by the adverse party; whereupon the court, after an investigation of the statements and evidence of both parties, shall decide the case in the same manner as if it had been brought on by a complaint in the ordinary mode.

The civil courts to use every means to induce parties, in cases of forcible dispossession of land, to refer their disputes to arbitration.

Second. In all the cases of forcible dispossession and disturbance of possession mentioned above, but more especially of disputes respecting the boundaries of estates and premises, and the right to water for the purposes of irrigation, the *dewanny* courts are hereby authorized and required to use every proper means for inducing the parties to refer their disputes to arbitration, with a view either of settling the possession until the matter can be investigated on a regular suit, or to make a complete and final adjustment of their differences; and the award when made, shall, if open to no just cause of impeachment, be executed by the court with the assistance of the arbitrators. If the parties shall agree to authorize the arbitrators to make a complete and final award on their differences (which mode of adjustment shall in the cases contemplated in this section, be invariably promoted by the courts), the agreement to refer shall carefully express that the award is intended to be final, and the award, when confirmed by the courts, shall be held of the same force and validity as a regular judgment.

In what cases the courts may attach the disputed lands.

Third. And whereas, on complaints for forcible dispossession from land and forcible disturbance of the possession thereof, it occasionally happens, that after due investigation the fact of possession cannot be ascertained, it shall in such cases be competent to the court before whom the matter is depending, to attach the disputed lands, and to appoint a person properly qualified and under adequate security to the management of the same by collecting the rents, discharging any public revenue demandable from the lands, and paying into court the profits which may result, after satisfying all necessary expences and disbursements. But the courts are enjoined not to resort to this measure, except when it may be found indispensable after a careful inquiry into the possession of the parties. Provided always, that nothing contained in this clause shall be construed to exempt estates or lands so attached from the responsibility to which they may be subject for payment of the public revenue to Government, according to the engagements contracted by the proprietors.

But the estates or lands so attached shall not be considered to be exempted from the payment of the public revenue to Government.

A. D. 1824. REGULATION XV.

A REGULATION *for enabling the Magistrates and Joint Magistrates to take summary cognizance of cases of forcible Dispossession from, or Disturbance in the Possession of Land or other Property, subject to a regular Suit in the Civil Court.* —PASSED *by the Governor General in Council, on the 22d July* 1824; *corresponding with the 8th Sawun* 1231 *Bengal era; the 11th Sawun* 1231 *Fussily; the 9th Sawun* 1231 *Willaity; the 11th Sawun* 1881 *Sumbut; and the 24th Zekaad* 1239 *Higeree.*

Preamble.

WHEREAS it appears desirable for the better maintenance of the public tranquillity, and with a view to prevent breaches of the peace, in cases of disputed boundaries or contested claims to the possession of lands, crops, wells, water-courses and other premises, that the summary investigation in such cases which is now made in the courts of *dewanny adaulut*, should, under certain circumstances, be conducted in the *fouzdarry* court, leaving the parties, if dissatisfied with the award of the magistrate, to institute a regular suit in the civil court for the final determination of their rigths: and whereas in some districts the offices of judge and magistrate are now held by different persons, under the provision made for that purpose in the second clause of Section 2, Regulation XVI. 1810, and in such instances a reference from the *fouzdarry* to the *dewanny* court, as prescribed in the first clause of Section 5, Regulation VI. 1813, might not always ensure the prompt inquiry and decision which are essential to the object of the summary process therein provided for; the following rules have been enacted to be in force from the date of their promulgation throughout the provinces subject to the presidency of Fort William.

Modification of certain rules relative to cases of forcible dispossession from land, &c.

II. The provisions of Regulation XLIX. 1793, Regulation XIV. 1795, Regulation XXXII. 1803, and Regulation VI. 1813, which relate to the summary investigation of cases of forcible dispossession from land, and other property, or forcible disturbance in the possession thereof, are hereby declared subject to the following modifications.

Magistrates and joint magistrates how to proceed, when disputes likely to lead to a breach of the peace exist regarding the possession of land, &c.

III. Whenever it may appear to a magistrate, or a joint magistrate, from the report of a police officer, or from any proceedings in the *fouzdarry* court, that disputes exist, concerning any lands or premises, or the right to water for purposes of irrigation, likely to terminate in a breach of the peace if not speedily adjusted, the magistrate or joint magistrate shall address *perwannahs* to the parties, calling on them to attend the *fouzdarry* court in person or by *vakeel*, and to deliver a written statement of their possession, and to adduce proof of their having been dispossessed or disturbed in their possession by the adverse party, whereupon the court, after an investigation of the statements and evidence of both parties, shall proceed to pass a summary decision on the merits of the case, and the party in whose favour judgment may be passed shall be maintained in possession, until the award may be altered or reversed on the institution and decision of a regular suit in the civil court.

Summary decision to be passed subject to a regular suit in the civil court.

Information to be furnished to the civil court.

IV. The magistrate by whom the summary investigation may be conducted in conformity with the preceding rule, shall, when he summons the parties to plead their respective

tive claims, forward a copy of his proceedings to the civil court of the city or district wherein the dispute may have arisen, in order that no investigation of the same case may be entered upon in the civil court, otherwise than on the institution of a regular suit, and in the event of a summary suit between the parties being at that time pending for trial in the civil court, the judge or register, (as the case may be,) shall forward the proceedings of the suit to the magistrate for his consideration and orders.

Magistrates and joint magistrates not authorized to award damages in such cases.

V. It is intended by the provisions of this regulation that the right to possession should alone be determined summarily by the *fouzdarry* courts, in order to secure the public peace. It shall not therefore be competent to the magistrates to award damages in such cases, and all parties who may have claims to urge for loss of crops or injuries sustained from dispossession, shall be referred to the civil court for redress under the rules at present in force.

No appeal from the summary decisions of magistrates in such cases to be admitted, except on the ground that the case was not cognizable by the magistrate under this regulation.

The court of circuit how to proceed, when such appeals may be preferred.

VI. It is hereby declared, that as the summary process authorized by this regulation is subsidiary to a regular suit in the *zillah* or city civil courts, no appeal shall be admissible against the judgments passed by the *zillah* or city magistrates, or joint magistrates, unless the ground of appeal be the irrelevancy of the regulation to the case appealed, on which ground only the court of circuit of the division is authorized to receive an appeal, if preferred at the *sudder* station of the court within one month of the date of the summary decision, in pursuance of the general rule prescribed in Section 5, Regulation III. 1821. The court of circuit, after receiving the appeal, and calling for the proceedings in the case, shall dismiss the same with costs, if the stated ground of irrelevancy shall not appear to be established. If on the other hand the provisions of this regulation appear inapplicable to the case, the court of circuit shall reverse the irregular judgment given by the magistrate or joint magistrate, and pass such further orders thereupon as they may think just and proper, in pursuance of the regulations in force, which may be applicable to the circumstances of the case.

A. D. 1828. REGULATION IV.

A REGULATION *to declare and extend the Powers to be exercised by Collectors, when making or revising Settlements, under the Provisions of Regulation VII.* 1822.

—PASSED *by the Governor General in Council, on the 7th August* 1828; *corresponding with the 24th Sawun* 1235 *Bengal era; the 12th Sawun* 1235 *Fussily; the 25th Sawun* 1235 *Willaity; the 12th Sawun* 1885 *Sumbut; and the 25th Mohurrum* 1244 *Higeree.*

Preamble.

WHEREAS it appears to be expedient that the powers specified in Section 16, Regulation VII. 1822, should be generally vested in collectors and other officers performing the duties of collectors, when employed in making or revising settlements according to the provisions of that law, and that the jurisdiction of the said officers in such cases should not be barred by summary decisions passed by magistrates or joint magistrates, under the rules of Regulation XV. 1824; the following rules have been enacted, to be in force, from the date of their promulgation, throughout the provinces subject to the presidency of Fort William.

Collectors and other officers engaged in making settlements of *mehauls*, to hear, try, and determine all claims to property and possession of the lands lying or alleged to lie within the same.

And to give possession to parties, subject to orders of the Boards of Revenue, and to revision of the *sillah* and provincial courts in regular suit.

II. *First.* It shall be competent to all collectors and other officers engaged in making or revising the settlement of any *mohaul*, to hear, try, and determine all claims to the property and possession of the lands lying, or alleged to lie within the same, or the rent or produce or any appurtenance thereof, and to give possession to the party who may appear to have the best title, subject to the orders and directions of the Board to which they are respectively subordinate, and further subject to the revision of the *sillah* or provincial court on a regular suit. And no decision passed by a collector under this section, shall be disturbed by any court of judicature, otherwise than after a full and regular investigation of the merits.

Decision of collectors not to be disturbed by courts of judicature, without a full and regular investigation of merits.

Second. In modification of the rule contained in Section 3, Regulation XV. 1824, it is hereby declared and enacted, that summary decisions passed by magistrates and joint magistrates, under the authority given to them, may be revised, altered, or reversed by collectors, or other officers exercising the powers vested in them by this regulation, intimation of such revision, alteration, or reversal being invariably given to the magistrate or joint magistrate of the division in which the original decision was passed, and the parties in whose favour judgment may be passed by the collectors or other officers above-mentioned, shall be maintained in possession, until the decision shall be altered or reversed by a superior Board or by a competent civil court, on the institution and determination of a regular suit.

Section 3, Regulation XV. 1824, modified.

Third. If in any case, in which a collector or other officer vested with the powers of collector may have held proceedings under Regulation VII. 1822, previously to the enactment of this regulation, it shall appear to the Board of Revenue or to Government, that justice has been denied to any one because of his not having exercised the authority, which such officers are, by this regulation, empowered and required to exercise, or in consequence of his jurisdiction having been disallowed, it shall be competent to the Board and to the Governor General in Council, to direct the said officer, or any other officer exercising simi-

The Board of Revenue and Government may direct collectors to hold supplementary proceedings, in cases in which there may be reason to think, that justice has been denied from want of authority on the part of collectors.

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lar functions, to hold supplementary proceedings, for the trial and determination of the claims of the party so appearing to be aggrieved, with the same powers as if he had originally proceeded under the present regulation.

Period defined, during which collectors are to be considered to be engaged in making and revising settlements.

Fourth. To prevent doubts as to the period, for which collectors and other officers aforesaid, are to possess the powers vested in them by this regulation, and by Regulation VII. 1822, in regard to any *mohauls* of which the settlement may have been or may be about to be made or revised, it is hereby declared and enacted, that they shall be held and considered to be engaged in making and revising such settlement from the date on which they may have issued or may issue orders for adjusting the boundaries, for measuring any of the lands, or for making a census of the inhabitants of any village or portion of a village belonging to such *mohaul*, of which intimation shall be given to the magistrate or joint magistrate within whose division the village shall be situated, up to the day on which they may be informed that the settlement, as made and revised by them, has been finally confirmed by Government. During the aforesaid period, the powers vested in magistrates and joint magistrates by Regulation XV. 1824, shall be suspended in regard to all *mohauls*, of which the settlement may be so in progress; and the said officers shall be guided, in respect to such *mohauls*, by the provisions of clause second, Section 34, Regulation VII. 1822, by which they were required to refer to the revenue authorities, disputes regarding lands, premises, crops, watercourses, and the like. And all police officers are required to give immediate and efficient support to collectors and other revenue officers in the execution of their duties.

The powers vested in magistrates and joint magistrates by Regulation XV. 1824, to be suspended for such period, and those officers to be guided by the rules of clause second, Section 34, Regulation VII. 1822.

Police officers to give immediate and efficient aid to collectors.

A. D. 1793. REGULATION XVIII.

A REGULATION *for preserving complete, the Records of the civil and criminal Courts of Judicature, and requiring the Zillah and City Courts to transmit monthly Reports of the Suits decided by them to the provincial Courts of Appeal; and directing the provincial Courts of Appeal to submit monthly Reports of the Appeals and Causes decided by them to the Sudder Dewanny Adawlut.*—PASSED *by the Governor General in Council on the* 1*st May* 1793; *corresponding with the* 21*st Bysaak* 1200 *Bengal era; the* 6*th Bysaak* 1200 *Fussily; the* 21*st Bysaak* 1200 *Willaity; the* 6*th Bysaak* 1850 *Sumbut; and the* 19*th Ramzaan* 1207 *Higeree.*

Preamble.

TO obviate injuries arising to public or private rights or property, by the loss, destruction, or removal of the records of the courts of judicature, and with a view to facilitate reference to them; and that the provincial courts of appeal may have in their possession a record of the number and nature of the causes filed and decided in the *zillah* and city courts, and the time they may have been depending, and the substance of the decision respecting them; and that the Sudder Dewanny Adawlut may possess similar information with regard to suits filed both in the *zillah* and city courts and the provincial courts of appeal; and that the Honourable Court of Directors may be apprized of the decisions of the Sudder Dewanny Adawlut; the following rules have been enacted.

Two native keepers of the records to be appointed to keep the records of the civil and criminal courts.

II. Two native keepers of the records shall be appointed to keep the *dewanny adawlut* and *foujdarree* records in each *zillah*, and in each of the cities of Patna, Dacca, and Moorshedabad, and in each of the provincial courts of appeal and courts of circuit, and in the Sudder Dewanny Adawlut, and the Nizamut Adawlut.

To hold their offices during their good behaviour, and to be removable only by the Governor General in Council.

III. The keepers of the records shall not be removed from their offices, but for misconduct proved to the satisfaction of the Governor General in Council, notwithstanding any thing that may be said to the contrary in any regulation passed on this date. The offices however are declared not to be hereditary.

To keep a list of the records in a book, paged and attested as herein directed.

IV. The keepers of the records are to keep a register, in the Persian and Bengal languages in Bengal and Orissa, and in the Persian language in Behar, of all the *dewanny* and *foujdarree* proceedings, documents, and other records belonging to the courts to which they may respectively be attached, in a book, each leaf of which shall be attested by the official signature of the register, and assistant to the judges and magistrates of the *zillahs* and cities, and the registers to the provincial courts of appeal and the courts of circuit, and the Sudder Dewanny Adawlut and the Nizamut Adawlut, and on the last leaf of which they shall specify in their own handwriting, the number of pages contained in the book. The existing records are to be first registered, and the keepers of the records are to prepare a list of them immediately upon the receipt of this regulation.

Number of the page on which papers are registered to be endorsed on the back of them.

V. The keepers of the records are to endorse upon the back of every paper or document which they may enter in the register, the number of the page in which it may be registered, and the endorsement is to be attested with the official signature of both or either of them.

Keepers of the records to be careful that papers are not destroyed by damp or otherwise.

VI. It shall be the duty of the keepers of the records to see that the records of the court are not destroyed by insects, damp, or otherwise, and that they are not removed without the orders of the court.

To be liable to dismission if papers are destroyed by their neglect, or shall not be forthcoming, and they shall not be able to give a satisfactory account of them.

VII. If any records entered in the register shall be destroyed in consequence of the neglect or any omission of the keepers of the records, or if any such records shall not be forthcoming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismission from their offices.

To observe any rules prescribed to them by any regulation, printed and published in the manner directed by Regulation XLI. 1793.

VIII. The keepers of the records are to be careful to attend to any rules or orders respecting the duties of their office, that may be prescribed to them by any regulation, printed and published in the manner directed by Regulation XLI. 1793, and also to any directions that may be given to them by the court to which they may be attached, or the register thereof, for the better keeping, preserving, or registering the records.

Book of daily proceedings to be kept in each *zillah* and city court. Entries to be made in it.

IX. The courts of *dewanny adawlut* established in the several *zillahs*, and at the cities of Patna, Dacca, and Moorshedabad, are to keep a book in which the daily proceedings in each cause, and every order or act of the court, are to be minuted in the Persian or Bengal language, in Bengal and Orissa, or in the Persian language, or the Hindoostanee language and Nagree character in Behar, and attested with the signature of the judge. The plaint, answer, reply, and rejoinder of the parties, and every deposition, exhibit, and paper whatever, read and filed in each cause, is to be minuted and referred to in this book, by marks or numbers, corresponding to marks or numbers to be endorsed on each document when it may be read in the cause.

A separate and complete record of each cause to be kept, in the form hereon prescribed.

X*. *Complete records also, numbered in the order in which the causes may be tried, are to be kept in each* zillah *and city court, in the following form, viz. Upon the decision of a cause, the plaint, answer, reply, and rejoinder, and all the pleadings, allegations, acts, and defaults of the parties, depositions of the witnesses, exhibits, and all other evidence, all orders of the court, and the returns thereto in the order in which they may be made, the decree, the order for the execution of it, and the return specifying how the decree has been executed, and all proceedings whatsoever, are to be written on a roll of strong paper, in the language in which the petition, answer, or other pleadings, depositions or exhibits respectively, may have been originally made. But every act and order of the court is to be uniformly entered in the Persian or Bengal language, in Bengal or Orissa, and in the Persian language, or in the Hindoostanee language and the Nagree character, in Behar, and, where depositions or exhibits shall be in any other language than the Persian or Bengal language, in Bengal or Orissa, or the Persian language, or the Hindoostanee language and Nagree character in Behar, they are to be entered in the language in which they may be made or written, together with faithful translates in the Persian or Bengal languages, in Bengal or Orissa, and in the Persian language, or the Hindoostanee language and Nagree character in Behar. This record is to be authenticated by the seal of the court, and the signature of the judge, and to be countersigned by the* serishtadar, *or other head native officer of the court. The record is to be kept in this form by the register amongst the muniments of the court, and it shall be and remain a record of the court; and a copy of it, authenticated by the seal of the court, and the signature of the judge, and countersigned by the* serishtadar *or head native ministerial officer of the court, is to be deemed and received as good evidence of such record in any court of judicature.*

How the record is to be authenticated.

Monthly abstract register to be kept by the judges of the *zillah* and city courts.

XI. The judge of each *zillah* and city court, is to keep a monthly abstract register in the English language, of causes decided, drawn out in the following form, on paper of the size which the Sudder Dewanny Adawlut may prescribe. One copy of the register for each month is to be dispatched by the fifteenth of the following month to the Sudder Dewanny Adawlut, and another copy is to be forwarded by the same period to the provincial court of appeal of the division in which the *zillah* or city court may be situated.

* Rescinded by Section 10, Regulation V. 1798.

Abstract Register of causes decided in the *dewanny adawlut* of the *zillah*, or city of ————, in the month of ————, 179 .

No. of the register.	Names of the parties.	Substance of the suit.	The decree.	Date on which the suit was filed in the *zillah* or city court.	Date of the decree.
1	Goremohun Poddar, *versus* Radakaunt Roy.	For the recovery of a debt of 100 rupees, on bond with interest.	Decreed to plaintiff 100 rupees principal, 20 rupees interest, and 10 rupees costs.	1st May, 1793.	10th July.
2	Ramnarain Ghose, *versus* Bowanny-churn Mitre.	For the recovery of 50 rupees, the value of a boat.	Dismissed, plaintiff having filed a *razeenamah*.	10th ditto.	13th ditto.
3	Chucka Ram, *versus* Sam Poddar.	For the recovery of one half of a *talook*, annual produce 500 rupees.	Ditto.	10th ditto.	16th ditto.
4	Mahomed Ally, *versus* Sook Loll.	For 600 rupees, a balance of rent.	Dismissed, with 100 rupees costs to defendant.	20th ditto.	30th ditto.

XII. On the 1st of January and the 1st July in each year, the judges of the *zillah* and city courts are to transmit to the provincial court of appeal of the division, and to the Sudder Dewanny Adawlut, a report of all causes remaining undecided in the court. The report is to be drawn out in the following form, on paper of the size which the Sudder Dewanny Adawlut may prescribe.

Half yearly report of undecided causes to be sent by the *zillah* and city courts to the provincial courts of appeal and the Sudder Dewanny Adawlut.

Report of causes depending in the *dewanny adawlut* of the *zillah* (or city) of ————, on the 1st January (or 1st July) 179 .

No. of the register.	Names of the parties.	Substance of the suit.	Date on which the suit was filed.	Remarks.
10	Ramnarain Ghose, *versus* Bhowanny Churn Mitre.	For the recovery of 50 rupees, the value of a boat.	1st May, 1793.	When any suits are entered in a half yearly report which have been inserted in any preceding half yearly report, the judge is to state in this column the cause of such suits remaining undecided.

XIII. The provincial courts of appeal are to keep a book of daily proceedings, similar to that which the judges of the *zillah* and city courts are required to keep in Section 9, with this difference, that the entries in the book are to be attested by the register, instead of the judges of the court.

Provincial courts of appeal to keep a book of proceedings, similar to that which the judges are directed to keep in Section 9, to be attested by the register and not by the judges.

XIV. The provincial courts of appeal are to keep a separate and complete record of causes which may be referred to them by the Governor General in Council, or the Sudder Dewanny Adawlut, for trial in the first instance, and also of their proceedings in appeals from the decisions of the* zillah *or city courts, similar to the record required to be kept by the* zillah *and city courts in Section* 10.

Provincial Courts also to keep a separate record of all causes and appeals tried by them.

XV. The provincial courts of appeal are required to keep a monthly abstract register in the English language of causes or appeals decided by them, drawn out in the following form, on paper of the size which may be prescribed by the Sudder Dewanny Adawlut. The register for each month is to be dispatched to the Sudder Dewanny Adawlut, by the fifteenth of the following month.

Monthly abstract register to be kept by the provincial courts of appeal.

* Rescinded by Section 16, Regulation V. 1798.

Abstract Register of causes and appeals, decided by the provincial court of appeal for the division of ————, in the month of ————, 179

Numbero the register in the zillah or city court.	Number of the register in the provincial court.	Names of the parties.	Substance of the original suit.	To whom and what decreed by the zillah or city court.	From what court appealed.	The decree of the provincial court.	Date on which the appeal was filed in the provincial court.	Date of the decree of the provincial court.
589.	1.	Guddadar Nundy, appellant, *versus* Hurrinarain, respondent.	For the recovery of a debt of 100 Rs. on bond with interest.	Rupees 100 to Hurrinarain.	Sylhet.	Confirmed the decree of the *zillah* court, with 20 Rs. costs to respondent.	10th June, 1793.	20th July.
640.	2.	Ramduloll Ghose, appellant, *versus* Gowry Churn, respondent.	For the recovery of 50 Rs. the value of a boat.	Rupees 25, decreed to Gowry Churn.	City of Dacca.	Reversed the decree of the city court, with 10 Rs. costs to appellant.	15th June, 1793.	24th ditto.
720.	3.	Shebuck Ram, appellant, *versus* Buddinaut Surmah, respondent.	For the recovery of one half of the village Rampore, annual produce 250 Rupees.	Buddinaut, half of the village Rampore, with 60 Rs. costs of suit.	Mymensing.	Dismissed, the parties having filed *razenamahs*.	16th June, 1793.	29th ditto.

Half yearly report of undecided causes to be transmitted by the provincial courts of appeal to the Sudder Dewanny Adawlut.

XVI. On the first of January, and the first of July in each year, the provincial courts of appeal are to transmit to the Sudder Dewanny Adawlut, a register of all the causes or appeals remaining undecided in the court. The register is to be drawn out in the following form, on paper of the size which the Sudder Dewanny Adawlut may prescribe.

Report of causes and appeals, depending in the provincial court of appeal, for the division of ———— on the 1st January (or 1st July) 179

No. of the register.	Names of the parties.	Substance of the cause or appeal.	Date on which the cause or appeal was filed.	Remarks.
10.	Bowanny Churn Mitre, *versus* Ramnarain.	For the recovery of 50 rupees, the value of a boat.	16th May 1793.	When any causes or appeals which have been inserted in a half yearly report, are re-entered in another half yearly report, the judges are to state in this column, the reason of such causes or appeals remaining undecided.

Sudder Dewanny Adawlut to keep proceedings and separate records of causes, as prescribed to the provincial courts in Sections 13 and 14.

Sudder Dewanny Adawlut to transmit to the Governor General in Council for the Court of Directors a half yearly abstract of causes decided by them.

XVII. The Sudder Dewanny Adawlut is to keep a book of daily proceedings, and a separate record of the appeals or causes which may be decided by them, in the same manner as is prescribed to the provincial courts of appeal in Sections 13 and 14.

XVIII. On the first of January, and the first of July in each year, the Sudder Dewanny Adawlut is to transmit to the Governor General in Council, to be forwarded to the Honourable Court of Directors, an abstract register of the causes decided by the court during the preceding six months, drawn out in the following form.

Abstract of decrees passed by the court of Sudder Dewanny Adawlut from the 1st of January to the 30th of June, (or from the 1st July to the 31st December,) 179

No.	Names of the parties.	Subject of the appeal.	Decree by the provincial court of appeal of what division passed.	Decree of the Sudder Dewanny Adawlut.	Date on which the appeal was filed in the Sudder Dewanny Adawlut.	Date of the decree of the Sudder Dewanny Adawlut.
1	RamRutton, appellant, *versus* Abhay Churn, respondent.	The right to the *zemindaree* of Sultanpore Khurrorea, in the *zillah* of Jessore, annual produce rupees 10,000, decreed to respondent.	Calcutta.	Confirmed the decree of the provincial court, with 100 rupees costs to respondent.	24th December, 1793.	17th January, 1794.
2	Bhowanny Pershaud, appellant, *versus* Nilkaunt, respondent.	The right to certain land exempted from the payment of revenue in the villages of Ramgur and Pertaubpore, in the *zillah* of Shahabad, annual produce rupees 1,100, decreed to respondent.	Patna.	Confirmed the decree of the provincial court, with 50 rupees costs to respondent.	20th January, 1794.	17th March, 1794.
3	Ram Hurry, appellant, *versus* Gourchund, respondent.	The proprietary right in the *talook* of Futtypore in the *pergunnah* of Balwah, in the *zillah* of Dacca, annual produce rupees 5,000, decreed to respondent.	Dacca.	Confirmed the decree of the provincial court, with 400 rupees costs to respondent.	28th January, 1794.	20th April, 1794.
4	Mahomed Eslam, appellant, *versus* Bishenaut, respondent.	For two thousand rupees, a balance of rent of land in Lushkerpore in the *zillah* of Rajeshahy, decreed to respondent.	Moorshedabad.	Reversed the decree of the provincial court, with 200 rupees costs to appellant.	10th February, 1794.	31st May, 1794.

A. D. 1795. REGULATION XVIII.

A REGULATION *for extending to the Province of Benares, Regulation XVIII.* 1793, *entitled "A Regulation for preserving complete the Records of the Civil and Criminal Courts of Judicature, and requiring the zillah and city Courts, to transmit monthly Reports of the Suits decided by them, to the Provincial Courts of Appeal, and directing the Provincial Courts of Appeal, to submit monthly Reports of the Appeals and Causes decided by them, to the Sudder Dewanny Adawlut."*—PASSED *by the Governor General in Council, on the 27th March* 1795; *corresponding with the* 16*th Chyte* 1201 *Bengal era; the* 22*d Chyte* 1202 *Fussily; the* 16*th Chyte* 1202 *Willaity; the* 22*d Chyte* 1852 *Sumbut; and the* 5*th Ramzaan* 1209 *Higeree.*

Preamble.

IT being requisite, on grounds similar to those stated in the preamble to Regulation XVIII. 1793, that the rules prescribed in that regulation, for keeping complete the records of the civil and criminal courts of judicature, in the provinces of Bengal, Behar and Orissa, and requiring reports of the causes and appeals determined in the civil courts, should be extended to the province of Benares, the following rule has been enacted.

Regulation XVIII. 1793, extended to Benares.

II. Regulation XVIII. 1793, is hereby extended to the province of Benares.

A. D. 1803. REGULATION XIII.

A REGULATION *for preserving complete, the Records of the Civil and Criminal Courts of Judicature, in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, and for requiring the Zillah Courts in the said Provinces, to transmit monthly Reports of the Suits decided by them, to the Provincial Court of Appeal; and for requiring the Provincial Court of Appeal to submit monthly Reports of the Appeals and Causes decided by them to the Sudder Dewanny Adawlut; and for enabling the Sudder Dewanny Adawlut to judge of the Progress made by the Zillah and Provincial Courts in the said Provinces, in the Determination of Causes.*—PASSED *by the Governor General in Council, on the* 24*th of March* 1803; *corresponding with the* 12*th Chyte* 1209 *Bengal era; the* 16*th Chyte* 1210 *Fussily; the* 12*th Chyte* 1210 *Willaity; the* 16*th Chyte* 1860 *Sumbut; and the* 29*th Zekaad* 1217 *Higeree.*

Preamble.

TO obviate injuries arising to public or private rights or property, by the loss, destruction, or removal of the records of the courts of judicature; and with a view to facilitate reference to them; and that the provincial court of appeal may have in their possession, a record of the number and nature of the causes filed and decided in the *zillah* courts, and the time they may have been depending, and the substance of the decision respecting them; and that the Sudder Dewanny Adawlut may possess similar information with regard to suits filed both in the *zillah* courts and the provincial court of appeal; and that the Honorable Court of Directors may be apprised of the decisions of the Sudder Dewanny Adawlut; the following rules have been enacted.

Two native keepers of the records to be appointed.

II. Two native keepers of the records shall be appointed to keep the civil and criminal records in each *zillah*, and in the provincial court of appeal, and court of circuit, and in the Sudder Dewanny Adawlut, and the Nizamut Adawlut.

To hold their offices during good behaviour.

III. The keepers of the records shall not be removed from their offices, but for misconduct, proved to the satisfaction of the Governor General in Council. The offices however are declared not to be hereditary.

To keep a list of the records.

IV. The keepers of the records are to keep a register, in the Persian and Hindoostanee language, of all the proceedings, documents, and other records, belonging to the courts to which they may respectively be attached, in a book; each leaf of which shall be attested by the official signature of the register, and assistant to the judges and magistrates of the *zillahs*, and the registers to the provincial court of appeal, and court of circuit, and the Sudder Dewanny Adawlut, and the Nizamut Adawlut; and on the last leaf of which, they shall specify in their own hand writing, the number of pages contained in the book.

Papers how to be entered.

V. The keepers of the records are to endorse upon the back of every paper, or document which they may enter in the register, the number of the page in which it may be registered; and the endorsement is to be attested with the official signature of both or either of them.

Keepers of the records to be careful that papers are not destroyed.

VI. It shall be the duty of the keepers of the records, to see that the records of the court are not destroyed by insects, damp, or otherwise; and that they are not removed without the orders of the court.

VII.

To be liable to dismission for neglect.

VII. If any records entered in the register shall be destroyed, in consequence of the neglect, or any omission of the keepers of the records; or if any such records shall not be forthcoming, and they shall not be able to give a satisfactory account of them, they shall be liable to dismission from their offices.

What rules they are to be subject to.

VIII. The keepers of the records are to be careful to attend to any rules or orders respecting the duties of their office, that may be prescribed to them by any established regulation; and also to any directions that may be given to them by the court, to which they may be attached, or the register thereof, for the better keeping, preserving, or registering the records.

Book of daily proceedings to be kept in each *zillah* court.

IX. The courts of *adawlut* established in the several *zillahs*, are to keep a book in which the daily proceedings in each cause, and every order or act of the court, are to be minuted in the Persian, or Hindoostanee language; and attested with the signature of the judge. The plaint, answer, reply, and rejoinder of the parties, and every deposition, exhibit, and paper whatever, read, and filed in each cause, is to be minuted and referred to in this book, by marks or numbers; corresponding to marks or numbers, to be endorsed on each document when it may be read in the cause.

Monthly abstract register to be kept by the judges of the *zillah* court.

X. The judge of each *zillah* court is to keep a monthly abstract register, in the English language, of causes decided, drawn out in the following form, on paper of the size which the Sudder Dewanny Adawlut may prescribe. One copy of the register for each month is to be despatched by the fifteenth of the following month to the Sudder Dewanny Adawlut, and another copy is to be forwarded by the same period to the provincial court of appeal.

Abstract Register of causes decided in the court of *adawlut* of the *zillah* of —— in the month of——

No. of the register.	Names of the parties.	Substance of the suit.	The decree.	Date on which the suit was filed in the *zillah* court.	Date of the decree.
1	Goremohun Poddar, versus Radakaunt Roy.	For the recovery of a debt of 100 rupees, on bond with interest.	Decree to plaintiff 100 rupees principal, 20 rupees interest, and 10 rupees costs.	1st May.	10th July.
2	Ramnarain Ghose, versus Bowannychurn Mitre.	For the recovery of 50 rupees, the value of a boat.	Dismissed, plaintiff having filed a *razeenamah*.	10th ditto.	15th ditto.
3	Chucka Ram, versus Sam Podar.	For the recovery of one half of a *talook*, annual produce 500 rupees.	Ditto.	10th ditto.	18th ditto.
4	Mahomed Ally, versus Sook Loll.	For 600 rupees, of balance of rent.	Dismissed, with 100 rupees costs to defendant.	20th ditto.	30th ditto.

Half-yearly reports to be made of undecided causes.

XI. On the first of January, and the first of July, in each year, the judges of the *zillah* courts are to transmit to the provincial court of appeal, and to the Sudder Dewanny Adawlut, a report of all causes remaining undecided in the court. The report is to be drawn out in the following form, on paper of the size which the Sudder Dewanny Adawlut may prescribe.

Report of causes depending in the court of *adawlut* of the *zillah* of —— on the 1st of January —— (or 1st July) 18—.

No. of the register.	Names of the parties.	Substance of the suit.	Date on which the suit was filed.	Remarks.
10	Ramnarain Ghose, versus Bhowanny Churn Mitre.	For the recovery of 50 rupees, the value of a boat.	1st May, 18——.	When any suits are entered in a half yearly report which have been inserted in any preceding half yearly report, the judge is to state in this column the cause of such suits remaining undecided.

XII. The provincial court of appeal is to keep a book of daily proceedings, similar to that which the judges of the *zillah* courts are required to keep in Section 9, with this difference, that the entries in the book are to be attested by the register, instead of the judges of the court.

Provincial court of appeal to keep a book of daily proceedings.

XIII. The provincial court of appeal is required to keep a monthly abstract register, in the English language, of causes or appeals decided by them, drawn out in the following form, on paper of the size which may be prescribed by the Sudder Dewanny Adawlut. The register for each month, is to be despatched to the Sudder Dewanny Adawlut, by the fifteenth of the following month.

Monthly abstract register to be kept by the provincial court.

Abstract Register of causes and appeals, decided by the provincial court of appeal for the ————, in the month of ——, 18—.

Number of the register in the *zillah* court.	Number of the register in the provincial court.	Names of the parties.	Substance of the original suit.	To whom and what decreed by the *zillah* court.	From what court appealed.	The decree of the provincial court.	Date on which the appeal was filed in the provincial court.	Date of the decree of the provincial court.
589	1	Guddadar Nundy, appellant, versus Hurrinarain, respondent.	For the recovery of a debt of 100 rupees, on bond with interest.	Rupees 100 to Hurrinarain.	Barreilly.	Confirmed the decree of the *zillah* court, with 20 rupees costs to respondent.	10th June.	20th July.
640	2	Ramdulol Ghose, appellant, versus Gowry Churn, respondent.	For the recovery of 50 rupees, the value of a boat.	Rupees 25, decreed to Gowry Churn.	Zillah of Barreilly.	Reversed the decree of the court, with 10 rupees costs to appellant.	15th do.	24th do.
720	3	Shebuck Ram, appellant, versus Buddinaut Surmah respondent.	For the recovery of one-half of the village ——, annual produce 250 rupees.	Buddinaut, half of the village —— with 60 rupees costs of the suit.		Dismissed, the parties having filed *razeenamah*.	16th July	29th do.

XIV. On the first of January, and the first of July, in each year, the provincial court of appeal is to transmit to the Sudder Dewanny Adawlut, a register of all the causes or appeals remaining undecided in the court. The register is to be drawn out in the following form, on paper of the size which the Sudder Dewanny Adawlut may prescribe.

Half-yearly report of undecided causes to be made by the provincial court to the Sudder Dewanny Adawlut.

Report of causes and appeals, depending in the provincial court of appeal, for the —— on the 1st January (or 1st July) 18—.

Number of the register.	Names of the parties.	Substance of the cause or appeal.	Date on which the cause or appeal was filed.	Remarks.
10	Bhowanny Churn Mitre, versus Ramnarain.	For the recovery of 50 rupees, the value of a boat.	16th May ——.	When any causes or appeals which have been inserted in a half yearly report, are re-entered in another half yearly report, the judges are to state in this column, the reason of such causes or appeal remaining undecided.

XV. The Sudder Dewanny Adawlut is to keep a book of daily proceedings, and a separate record of the appeals or causes which may be decided by them, in the same manner as is prescribed to the provincial court of appeal in Section 12.

Sudder Dewanny Adawlut to keep a daily book and separate records of causes.

XVI. On the first of January, and the first of July, in each year, the Sudder Dewanny Adawlut is to transmit to the Governor General in Council, to be forwarded to the Honorable Court of Directors, an abstract register of the causes decided by the court during the preceding six months, drawn out in the following form :—

To submit to the Governor General in Council, a half-yearly abstract of causes decided.

Abstract of decrees passed by the court of Sudder Dewanny Adawlut, from the 1st of January to the 30th of June, (or from the 1st July to the 31st Dec.) 180 .

No.	Names of the parties.	Subject of the appeal.	Decree by the provincial court of appeal.	Decree of the Sudder Dewanny Adawlut.	Date on which the appeal was filed in the Sudder Dewanny Adawlut.	Date of the decree of the Sudder Dewanny Adawlut.
1	Ram Rutton, appellant, versus Abhay Churn, respondent.	The right to the *zemindaree* of——, in the *zillah* of——annual produce rupees 10,000, decreed to respondent.		Confirmed the decree of the provincial court, with 100 rupees costs to respondent.	24th Dec.	17th Jan.
2	Bhowanny Pershaud, appl. versus Nilkaunt, respondent.	The right to certain land exempted from the payment of revenue in the villages of—— and ——, in the *zillah* of ——, annual produce rupees 9,100, decreed to respondent.		Confirmed the decree of the provincial court, with 50 rupees costs to respondent.	20th Jan.	17 March.
3	Ram Hurry, appellant, versus Gourchund, respondent.	The proprietary right in the *talook* of ——, in the pergunnah of ——, in the *zillah* of ——, annual produce rupees 5,000 decreed to respondent.		Confirmed the decree of the provincial court, with 400 rupees costs to respondent.	28th Jan.	20th Apr.
4	Mahomed Eslam, appl. versus Bishenaut, respondent.	For nine thousand rupees, a balance of rent of land in——, in the *zillah* of ——, decreed to respondent.		Reversed the decree of the provincial court, with 200 rupees costs to appellant.	10th Feb.	31st May.

Causes how to be distinguished in the monthly registers.

XVII. That the Sudder Dewanny Adawlut, and the provincial court of appeal, may be apprized of the nature and number of the causes decided monthly by the registers, to the *zillah* courts, a list of the causes determined by the register in each month, shall be subjoined to the monthly abstract register of causes decided by the judge required to be transmitted to the Sudder Dewanny Adawlut, and the provincial court of appeal, by Section 10; and the judges shall likewise distinguish in their monthly abstract registers, such decisions as they may pass in appeal from the decrees of the registers; so that the Sudder Dewanny Adawlut may be informed of the number of appeals so referred, and the decisions upon them; and in the half yearly report of causes undecided, required to be transmitted to the provincial court of appeal and the court of circuit, by Section 11, the judges are likewise to distinguish such of the suits as may be depending in appeal before them from the decisions of their registers, and also the suits that may be under trial before their registers.

Register to submit to the court a monthly report on the abstract registers of the *zillah* courts.

XVIII. By the last day of each month, the register to the Sudder Dewanny Adawlut, shall prepare to be submitted to the court at their next meeting, a general report on the abstract registers, required to be furnished by the *zillah* courts, by Section 10, for the preceding month. The report is to specify the number of suits appearing in the abstract register of each court, to have been determined by the judge, and by his register, or by the native commissioners, or adjusted by the parties.

Register to submit a monthly report on the abstract registers of the provincial court.

XIX. The register is likewise to prepare, by the last day of each month, to be submitted to the court at their next meeting, a report on the abstract registers required to be furnished by the provincial court of appeal by Section 13, specifying the number of appeals and causes determined, or adjusted in the court in the preceding month.

Report to be submitted by the register on the half

XX. On the 15th of February, and the 15th of August, in each year, or at the first court which may be held after those dates respectively, the register shall submit to the court, a report

port on the last half-yearly report of causes depending in the *zillah* courts, which they are required to furnish by Section 11. The report shall specify the number of causes depending before the judge, the register, and the native commissioners, in each *zillah*, and the number of causes depending in the preceding half-yearly report; so as to exhibit a comparative statement of the number of suits depending at the period of the transmission of the two reports. The register is to annex to his report, a summary of the reasons assigned by the several courts for any causes remaining undecided, which may have been inserted as depending in any of their preceding half-yearly reports.

yearly reports of the *zillah* courts of the causes remaining undecided.

XXI. The register is likewise to submit, with the report required in the preceding section, a similar report on the causes depending in the provincial court of appeal, as appearing in their two last half yearly reports.

Also a report of suits depending previous to the last half yearly reports.

XXII. In the event of any of the *zillah* courts, or provincial court of appeal, omitting to forward their monthly abstract registers, or half yearly reports, in time to enable the register to submit the reports and statements as above required, he is to notice the omission in his report, with the reasons for the deficient reports not having been forwarded; should any have been assigned by the courts.

To notice what abstract registers or reports have not been transmitted.

XXIII. *First.* To enable the register to prepare the required reports and statements with greater facility, the following rules are prescribed.

Rules for facilitating the preparing of the registers reports.

Second. The judges of the *zillahs* are directed to insert at the bottom of their monthly abstract registers, an abstract of the number of causes determined, as follows:

Abstract to be inserted by the judges of the *zillahs* at the foot of their monthly abstract registers.

BY THE JUDGE.

IN APPEAL FROM DECISIONS OF THE REGISTER.

Decreed or dismissed, ...	2	
Adjusted by *razeenamahs* of the parties	2	
		4

IN APPEAL FROM DECISIONS OF THE NATIVE COMMISSIONERS.

Decreed or dismissed, ...	2	
Adjusted by *razeenamahs* of the parties, ...	2	
		4

TRIED IN THE FIRST INSTANCE BY THE JUDGE.

Decreed or dismissed, ...	2	
Adjusted by *razeenamahs* of the parties, ...	2	
		4
		12

BY THE REGISTER.

Decreed or dismissed, ...	2	
Adjusted by *razeenamahs*, ...	2	
		4

BY THE NATIVE COMMISSIONERS.

Decreed or dismissed, ...	2	
Adjusted by *razeenamahs* of the parties, ...	2	
		4
		8
Total		20

Third. The judges of the *zillahs* are to insert at the bottom of their half-yearly reports of causes remaining undecided, the number of suits depending, as follows:

Abstract to be inserted by the judges of the *zillahs* at the foot of their half-yearly reports.

DEPENDING BEFORE THE JUDGE.

In appeal from decisions of the register, ...	2	
In appeal from decisions of the commissioners, ...	2	
Under trial before the judge in the first instance, ...	2	
		6
Depending before the register, ...		2
Depending before the commissioners, ...		2
Total		10

Abstract to be inserted by the provincial court of appeal at the foot of its monthly abstract registers.

Fourth The provincial court of appeal is to insert at the bottom of its monthly abstract registers, an abstract of the number of appeals or causes determined by it in the month as follows:

APPEALS.

Decreed or dismissed, ...	2	
Adjusted by the *razeenamahs* of the parties, ...	2	
		4

CAUSES TRIED BEFORE THE COURT IN THE FIRST INSTANCE

Decreed or dismissed, ...	2	
Adjusted by the *razeenamahs* of the parties, ...	2	
		4
Total		8

Abstract to be inserted by the provincial court of its half yearly reports.

Fifth The provincial court of appeal is to insert at the bottom of its half-yearly reports an abstract of the number of appeals or causes depending before it, as follows:

Appeals, ...	2	
Causes under trial before the court in the first instance, ...	2	
Total		4